



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शुक्रवार, 08 नवम्बर, 2019 / 17 कार्तिक, 1941

हिमाचल प्रदेश सरकार

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 17th October, 2019

No. HHC/Admn. 6(23)/74-XVII.—Hon'ble the Chief Justice in exercise of the powers vested in him under Rule 2(32) of Chapter 1 of H.P. Financial Rules, 2009 has been pleased to declare Civil Judge-cum-JMIC, Nalagarh, H.P. as Drawing and Disbursing Officer in respect of the

Court of Senior Civil Judge-cum-ACJM, Nalagarh, H.P. and also the Controlling Officer for the purpose of T.A. etc. in respect of the establishment attached to the aforesaid Court under Major head “2014 Administration of Justice” during the earned leave period of Smt. Upasna Sharma, Senior Civil Judge-cum-ACJM, Nalagarh, H.P. w.e.f. 17-10-2019 to 31-10-2019 or until she returns from leave.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 17th October, 2019

No. HHC/Admn. 6(23)/74-XVII.—Hon’ble the Chief Justice in exercise of the powers vested in him under Rule 2(32) of Chapter 1 of H.P. Financial Rules, 2009 has been pleased to declare the Additional District and Sessions Judge-II, Mandi, H.P. as Drawing and Disbursing Officer in respect of the Court of Additional District and Sessions Judge-I, Mandi, H.P. and also the Controlling Officer for the purpose of salary, T.A. etc. in respect of Class II to IV establishment attached to the aforesaid Court under Major head “2014 Administration of Justice” with immediate effect till the posting of new Presiding Officer in the aforesaid Court.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 15th October, 2019

No. HHC/Admn. 6(23)/74-XVII.—Hon’ble the Chief Justice in exercise of the powers vested in him under Rule 2(32) of Chapter 1 of H.P. Financial Rules, 2009 has been pleased to declare the Senior Civil Judge-cum-ACJM-I, Sarkaghat, H.P. as Drawing and Disbursing Officer in respect of the Court of Civil Judge-cum-JMIC-II, Sarkaghat, H.P. and also the Controlling Officer for the purpose of salary, T.A. etc. in respect of Class II to IV establishment attached to the aforesaid Court under Major head “2014 Administration of Justice” with immediate effect till the posting of new Presiding Officer in the aforesaid Court.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001**NOTIFICATION***Shimla, the 21st October, 2019*

No. HHC/Admn. 6(23)/74-XVII.—Hon'ble the Chief Justice in exercise of the powers vested in him under Rule 2(32) of Chapter 1 of H.P. Financial Rules, 2009 has been pleased to declare the Additional District and Sessions Judge, CBI, Shimla, H.P. as Drawing and Disbursing Officer in respect of the Court of Additional District and Sessions Judge-I, Shimla, H.P. and also the Controlling Officer for the purpose of T.A. etc. in respect of the establishment attached to the aforesaid court under Major head "2014 Administration of Justice" during the earned leave period of Smt. Jyotsna Sumant Dadhwal, Additional District and Sessions Judge-I, Shimla, H.P. *w.e.f.* 30-10-2019 to 06-11-2019 with permission to prefix local holiday, Sunday and Deepawali holidays falling *w.e.f.* 26-10-2019 to 29-10-2019 or till she returns from leave.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001**NOTIFICATION***Shimla, the 15th October, 2019*

No. HHC/Admn. 6(23)/74-XVII.—Hon'ble the Chief Justice in exercise of the powers vested in him under Rule 2(32) of Chapter 1 of H.P. Financial Rules, 2009 has been pleased to declare Senior Civil Judge-cum-ACJM, Amb, H.P. as Drawing and Disbursing Officer in respect of the Courts of Civil Judge-cum-JMIC-II & III, Amb, H.P. and also the Controlling Officer for the purpose of T.A. etc. in respect of the establishments attached to the aforesaid Courts under Major head "2014 Administration of Justice" during the earned leave period of Ms. Rosy Dahiya, Civil Judge-cum-JMIC-II, Amb, H.P. *w.e.f.* 19-10-2019 to 25-10-2019 with permission to suffix local holiday, Sunday and Deepawali holidays falling *w.e.f.* 26-10-2019 to 29-10-2019 or until she returns from leave.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001**NOTIFICATION***Shimla, the 22nd October, 2019*

No. HHC/GAZ/14-356/2015.—Hon'ble the Chief Justice has been pleased to grant *ex-post facto* sanction of 03 days commuted leave on and *w.e.f.* 25-09-2019 to 27-09-2019 in favour of Shri Umesh Verma, Civil Judge-cum-JMIC, Chamba, H.P.

Certified that Shri Umesh Verma has joined the same post and at the same station from where he proceeded on leave, after expiry of the above period of leave.

Also certified that Shri Umesh Verma would have continued to hold the post of Civil Judge *cum*-JMIC, Chamba, H.P., but for his proceeding on leave for the above period.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH AT SHIMLA-171 001

NOTIFICATION

Shimla, the 24th October, 2019

No. HHC/GAZ/14-356/2015.— Hon'ble the Chief Justice has been pleased to grant 10 days earned leave on and *w.e.f.* 30-10-2019 to 08-11-2019 with permission to prefix Sunday and Deepawali holidays falling on and *w.e.f.* 27-10-2019 to 29-10-2019 and to suffix Second Saturday and Sunday falling on 09-11-2019 & 10-11-2019, in favour of Shri Umesh Verma, Civil Judge *cum*-JMIC, Chamba, H.P.

Certified that Shri Umesh Verma is likely to join the same post and at the same station from where he proceeds on leave, after expiry of the above period of leave.

Also certified that Shri Umesh Verma would have continued to hold the post of Civil Judge *cum*-JMIC, Chamba, H.P., but for his proceeding on leave for the above period.

By order,
Sd/-
Registrar General.

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Shimla, the 3rd August, 2019

No. Shram(A)6-1/2019(Awards).—In exercise of the powers vested under section 17 (1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the Presiding Officer, Labour Court Shimla on the website of the Department of Labour & Employment Government of Himachal Pradesh :—

Sl. No.	Reference/ Application	Title	Section
1.	App. 14/2018	Narender Dutt <i>V/s</i> The Divisional Forest Officer, Rajgarh & Anr.	2-A
2.	Ref. 44/2016	Madan Lal <i>V/s</i> Secretary, M/s Bhojia Dental College & Hospital, Baddi & Anr.	10
3.	Ref. 82/2014	Workers, M/s Raja Forging & Gears Ltd. <i>V/s</i> M/s Raj Forging & Gears Ltd. Baddi.	10

4.	Ref. 51/2019	Preethi Workers Union V/s M/s Preethi Kitchen Appliances (P) Ltd. Nalagarh & Anr.	10
5.	Ref. 18/2017	Virender Chauhan V/s Managing Directord, Himachal Pradesh Horticulture Produce, Marketing & Processing Corporation Limited Shimla & Anr.	10
6.	Ref. 20/2014	Staya Prasad Kothari V/s The Commandant (Chairman) Army Public School Dagshai, Solan.	10
7.	Ref. 44/2019	Rajesh Thakur V/s The General Manager, HOP-HPPCL, Reckong Peo & Ors.	10
8.	Ref. 47/2019	Meen Raj V/s The General Manager, HOP- HPPCL, Reckong Peo & Ors.	10
9.	Ref. 43/2019	Mahesh Kumar V/s The General Manager, HOP-HPPCL, Reckong Peo & Ors.	10
10.	Ref. 42/2019	Sharmila Kumari V/s The General Manager, HOP-HPPCL, Reckong Peo & Ors.	10
11.	Ref. 40/2019	Ram Bahadur V/s The General Manager, HOP-HPPCL, Reckong Peo & Ors.	10
12.	Ref. 41/2019	Mahadev Koll V/s The General Manager, HOP-HPPCL, Reckong Peo & Ors.	10
13.	Ref. 14/2017	Sarita V/s The Secretary, Sarvodya Bal Ashram, Shimla.	10
14.	App. 86/2017	Pappu V/s Managing Director, The Mondetez India Foods Ltd. Village Sandholi, Baddi, District Solan, H.P.	2-A
15.	App. 91/2017	Mukesh Kumar V/s Managing Director, The Mondetez India Foods Ltd. Village Sandholi, Baddi, District Solan, H.P.	2-A
16.	App. 84/2017	Vinod Kumar V/s Managing Director, The Mondetez India Foods Ltd. Village Sandholi, Baddi, District Solan, H.P.	2-A
17.	App. 90/2017	Ravi Kumar V/s Managing Director, The Mondetez India Foods Ltd. Village Sandholi, Baddi, District Solan, H.P.	2-A
18.	Ref. 20/2016	Yash Pal through Bhartiya Mazdoor Sangh Shimla V/s Managing Director, H.P. State Civil Supplies Corporation Ltd., SDA Complex, Kasumpti, Shimla-9, H.P.	10

By order,

NISHA SINGH,
Addl. Chief Secretary (Lab. & Emp.).

IN THE COURT OF CHIRAG BHANU SINGH, PRESIDING JUDGE, H.P.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA

App. No. : 14 of 2018
Instituted on : 23-1-2018
Decided on : 28-5-2019

Narender Dutt s/o Shri Jagat Ram r/o Village Chamria, P.O Bhallen, Tehsil Pachhad District Sirmour, H.P. . *Petitioner.*

Versus

1. The Divisional Forest Officer, Forest Division Rajgarh, District Sirmour, H.P.
2. Range Officer, Sarahan, Forest Range Sarahan, District Sirmour, H.P. . *Respondent.*

Application under section 2-A of the Industrial Disputes Act, 1947

For petitioner : Shri R. K. Khidtta, Advocate

For respondents: Ms. Reena Chauhan, Dy. DA

AWARD/ORDER

The petitioner had preferred the present statement of claim under section 2-A of the Industrial Disputes Act, 1947 (hereinafter to be referred as the Act) seeking to set aside his illegal termination. The petitioner further seeks reinstatement in service alongwith all consequential service benefits including full back-wages.

2. Shorn of unnecessary details, it is the case of the petitioner that he came to be engaged as a beldar with the Forest Department in Sarahan range in the month of April 1992 and worked as such till July 2000. His services were illegally terminated by the respondent without complying with the mandatory provisions of the Act. The petitioner was compelled to file a demand notice which was sent as reference No. 124/2003 to this Court. The aforesaid reference was amicably settled between the parties on 12.7.2006 as the petitioner was re-engaged for plantation immediately from the very next day.

3. In pursuance to the orders passed by this Court the petitioner continued working with the respondents till the year 2015. The respondents had given fictional breaks during the aforesaid period with the intention to frustrate the rightful claim of the petitioner for regularization. The fictional breaks were totally illegal as the juniors were allowed to work continuously during the aforesaid period. The petitioner had completed 240 days in each calendar year. The work and conduct of the petitioner was good and no warning/chargesheet was ever issued to him by the respondents.

4. The termination of the petitioner thus is violative of the provisions of sections 25-F, 25-G and 25-H of the Act. While terminating the services of the petitioner the department had not followed the principles of “last come first go” and the juniors to the petitioner are still working with the department. Not only this, the department has also regularized the services of the persons junior to him. This action of the respondent thus is also violative of sections 25-F, 25-G and 25-H of the Act. The petitioner is unemployed *w.e.f.* 1.1.2016.

5. The petitioner was forced to file a demand notice before the Conciliation Officer, Solan on 19.8.2017. The respondents were summoned and they had also filed reply to the demand notice. The period of 45 days already stands expired and the appropriate government has failed to refer the dispute to this Court and hence the present application.

6. The petitioner thus prays that he may be reinstated with continuity in service *w.e.f.* Jan. 2016 with full back-wages. The petitioner be also awarded damages to the tune of

Rs. two lakhs and the respondent may also be burdened with the costs of litigation amounting to Rs. 25,000/-.

7. The respondents while contesting the claim have *inter-alia* raised preliminary objections that the present petition is not maintainable as the petitioner had not completed 240 days in each calendar year. The petitioner had submitted an affidavit on 22.3.1999 to the respondent that he will work on musterroll basis but will not claim any seniority or other retrenchment benefits from the Government if his musterroll is cancelled or removed. Further per the respondents the claim is also not maintainable as the petitioner has left the work of his own will. The petition is also stated to be bad for delay and laches and the same is liable to be dismissed even on account of the own acts, conduct and acquiescence of the petitioner.

8. On merits, it is the contention of the respondents that the petitioner was initially engaged on various seasonal forestry works in Sarahan Range on muster-roll basis during August 1994. He continued working as such with intermittent breaks at his own sweet will upto August 2000. The mandays chart of the petitioner is also annexed alongwith as Annexure R-2. Thereafter, he has worked in the year 2013 -14 (*w.e.f.* 10/13 and 8/14) on bill basis. The mandays chart is annexed alongwith as Annexure R-3. Per the respondent the petitioner has not completed 240 days in any of the years. The petitioner has left the work during 8/2000 and 8/2014 at his own sweet will for the reasons best known to him. The services of the petitioner were never terminated by the respondent either orally or through any notice and as such the question of non-compliance of any provisions of the Act does not arise. It is however admitted that the petitioner had filed a reference No. 124 of 2003 and the orders passed thereon are also admitted.

9. It is however denied by the respondent that any artificial/fictional breaks were given to the petitioner. None of the persons junior to the petitioner were engaged by the respondent. However, it is submitted by the respondents that the workmen who are continuously working with the department and who have completed required number of year were retained in service as per the Policy of the Government. The petitioner never completed 240 days in any calendar year. He has worked with intermittent breaks and left the work of his own sweet will. His services were never been terminated by the respondents. Since, he was never terminated, therefore, the question of following the principles of "last come first go" does not arise.

10. It is further the case of the respondents that the petitioner was never stopped/restrained from work but he left the work at his own will for the reasons best known to him. In case he is willing to work with the respondent department on bill basis he will be re-engaged at the place where work is available within Rajgarh Forest Division. It is admitted that a demand notice had been filed on 13-8-2017 and the conciliation process was on when the petitioner approached this Court. It is therefore prayed that the application be dismissed for want of any merit.

11. While filing rejoinder, the petitioner controverted the averments in the reply and further reiterated those in the statement of claim.

12. I notice that on 25-6-2018, the following issues came to be framed by my Learned Predecessor:

1. Whether the termination of the services of the petitioner by the respondents without complying with the provisions of Industrial Disputes Act, 1947 is illegal and unjustified? . . .*OPP.*

2. If issue No. 1 is proved in affirmative, to what relief of service benefits the petitioner is entitled? . . . *OPP.*
3. Whether the petition is not maintainable as alleged? . . . *OPR.*
4. Whether the petition is hit by delay and laches as alleged? . . . *OPR.*
5. Relief:

13. Having considered the pleadings, evidence and other attendant material placed on record, my findings on the issues framed are thus:—

Issue No. 1 : Yes

Issue No. 2 : Entitled to re-instatement with seniority and continuity but without any back-wages.

Issue No. 3 : No.

Issue No. 4 : No.

Relief : Application allowed partly per operative part of order/ award.

REASONS FOR FINDINGS

Issues No. 1 & 2 :

14. Both these issues are being taken up together as they are correlated and intermingled.

15. It is not disputed that the petitioner was working on muster-roll basis with the respondents since August 1994, though the petitioner has alleged that he started working from April 1992. The respondents have admitted that the petitioner started working on muster-roll basis with the respondents department since August 1994 but he had been engaged on daily wages for seasonal work. He worked with intermittent breaks and at his own sweet will till August 2000. He had never completed 240 days in any of the calendar years.

16. It is also undisputed that even earlier a reference No. 124/2003 had come to be filed by the petitioner and the same came to be disposed off *vide* an order dated 12.7.2006 (Ex. RW-1/E), whereby the reference was amicably decided by way of conciliation and the petitioner was agreed to be engaged for plantation work immediately. The respondents had also agreed to do so.

17. Per the petitioner immediately after the passing of the order on 12.7.2006 (Ex. RW-1/E), he has been continuously working with the respondents uninterruptedly till his illegal termination in the year 2015. No notice was issued to the petitioner regarding his termination and even juniors to him have still been retained and as such the action of the respondents is in violation of sections 25-F, 25-G and 25-H of the Act.

18. Per contra, it is the case of the respondents that the petitioner had left the work at his own sweet will. He had never completed 240 days in any calendar year and even had submitted an affidavit on 22.3.1999 that he will work on muster-roll basis and shall not claim any seniority or

other retrenchment benefits from the respondents department if his muster-roll is cancelled (Ex. RW-1/B). It is further the case of the respondents that no persons junior to the petitioner were engaged by the respondents. It is further their contention that the respondents never stopped/restrained the petitioner from work but he left the work at his own will for the reason best known to him. In case he is willing to work with the respondents on bill basis he will be re-engaged at the place where the work is available within Rajgarh Forest Division as and when he approaches the respondents.

19. The case of the respondents thus is that the petitioner has abandoned the job at his own and never completed 240 days in any calendar year. The respondents have placed on record the mandays charts of the petitioner *vide* Ex. RW-1/C, which pertain to the year 1994 to 2000 and Ex. RW-1/D which pertain to the year 2013 and 2014. The same have been placed on record by RW-1 Shri Roshan Lal, Range Officer Sarahan, Rajgarh Forest Division, Sirmour, H.P. The perusal of the mandays chart show that undoubtedly the petitioner had worked with the respondents from the year 1994 to 2000, though, without having completed 240 days in any of the calendar year. As per Ex. RW-1/D, the petitioner has not worked with the respondents from the year 2006 to 2013 and in the years 2013 and 2014 the petitioner is shown to have worked on bill basis and no mandays have been reflected therein. However, the fact remains that *vide* an order dated 12.7.2006 (Ex. RW-1/E) the petitioner had been ordered to be re-engaged from the very next day (Ref. No. 124 of 2003). It is thus apparent that either the earlier orders were not complied or the petitioner was not allowed to join the next day as was ordered in Ref. No. 124/2003. However, the fact remains that even as per the showing of the respondents the petitioner has worked with the respondents in the years 2013 & 2014 as is clear from Ex. RW-1/D. Though, no mandays have been reflected in the said document.

20. It is the case of the respondents that the petitioner had abandoned the job of his own sweet will but there is no evidence on record to remotely show the factum of abandonment. Our own **Hon'ble High Court in State of H.P. Vs. Batag Ram and another [(2007) STPL (HJ) 1390 (HP)]** has categorically held that the abandonment is a plea of fact and the same has to be substantiated by leading evidence. There is no evidence worth the name to prove the factum of abandonment, as has been alleged. The deputy Ranger while appearing as RW-1 has merely stated in his affidavit that the petitioner has not completed required 240 days minimum in any of the calendar year and his service was never terminated or retrenched by any of the respondents orally or by issuing notice to him, but he left the work of his own sweet will. Per this witness after the year 2009 execution of work is being effected on bill basis and the department had been asked not to engage any new daily waged labourer on muster-roll basis as per Himachal Pradesh Government Addendum No. FFE-B-C(1)-35/2009 dated 9.11.2009.

21. In his cross-examination, also the witness has deposed that the service of the petitioner was never terminated either in August 2004 or in the year 2015. He has admitted that the seniority regarding the workmen is maintained at the division level. Though, he denies that fresh hands were engaged after 1995 but has admitted the seniority list Ex. P-1 having been maintained by the department for Rajgarh Division. In the said seniority list people are shown have been appointed even after 1995. The witness has admitted that the petitioner was never issued any letter to resume work, though, he has volunteered that the petitioner was called orally, like the other workers were called. He has also admitted that no enquiry was conducted regarding the absence of the petitioner. He has also admitted that the notification regarding the appointment on bill basis was make applicable to the persons appointed fresh *i.e* after the notification issued on 9.11.2009.

22. The conjoint reading of the evidence led by the parties clearly show that the petitioner had been working with the respondents in 1994 and continued working as such till the

year 2000. He challenged his termination *vide* reference No. 124/2003 in which orders came to be passed on 12.7.2006, directing the respondents to engage him on plantation work immediately, by the next day. Though the parties are at variance thereafter, but the fact remains that the petitioner admittedly did work with the respondents in the years 2013 and 2014. The petitioner though pro-claims that he continued working since 2006 and the order dated 12.7.2006 (Ex. RW-1/E) also does raise a presumption in this behalf, as the respondents had been directed to re-engage the petitioner forth-with rather from the next day itself. Though, it is the case of the respondents that the petitioner had himself abandoned his job. Unfortunately, there is no evidence *qua* abandonment which has been placed on record by the respondents. So much so the date of the alleged abandonment has also not been either pleaded or proved.

23. Keeping in view the order dated 12.7.2006 Ex. RW-1/E, the petitioner will have to be considered to be in employment with the respondents since the year 1994, however, admittedly, he has not completed 240 days in any of the year and the protection of section 25-F may not augur to the benefit of the petitioner but the fact remain that the persons engaged alongwith the petitioner and those employed after him continued to work with the respondents. Since the respondents had failed to prove abandonment it will have to be presumed the petitioner was retrenched. In that case the provisions of sections 25-G and 25-H had to be followed by the respondents. Section 25-G *inter-alia* envisages that the employer shall ordinarily retrench the workman who was the last person employed in that category and section 25-H further mandate that if the employer proposes to take into his employment any persons, he shall first give an opportunity to the retrenched workman. Ex. P-1 on record which is also admitted to be the seniority list maintained by the department by RW-1, shows that people have been employed even after 1994.

24. By now it is fairly well settled that the provisions of sections 25-G and 25-H are applicable to all retrenched workmen and not only to those who are protected under section 25-F of the Act. In this behalf support can ably be drawn from the judgment of the Hon'ble Supreme Court reported in **(1996) 5 419 and Harvinder Singh Vs. Punjab State (2010) 3 SCC 192**.

25. Though, it is not the specific and pleaded case of the respondents that even after his re-engagement in pursuance to order Ex. RW-1/E, the petitioner was only engaged on bill basis and in fact the same could not have been their pleaded case because the petitioner was already ordered to be engaged in the year 2006 whereas the Government instructions for executing work on bill basis was issued only on 9.11.2009. However, RW-1 while appearing as a witness has tried to take advantage of the said notification. I am afraid that too will not augur to the benefit of the respondents as the said notification was to be applicable only to persons engaged after 9.11.2009. The notification was prospective in nature as has been admitted by RW-1 also. The petitioner had come to be engaged as far back as 1994. In fact even his re-engagement was much before the year 2009. The affidavit purportedly executed by the petitioner, *vide* Ex. RW-1/B that he will not claim any seniority or other retrenchment benefits from Government or the department is a document which is *void-ab-initio* being in direct contravention to the provisions of the Industrial Disputes Act and is thus of no relevance. It cannot help the respondents in any way. The affidavit is not only against the mandatory provisions of the Act, but, to say the least even against public policy.

26. For all the reasons discussed hereinabove it is more than clear that the respondents have failed to prove abandonment and the termination of the petitioner thus is indeed violative of the provisions of sections 25-G & 25-H of the Act, even if it is not violative of section 25-F. The action of the respondents thus is not sustainable and the termination of the petitioner is accordingly held to be against the provisions of sections 25-G and 25-H of the Act. Consequently, the petitioner is ordered to be re-engaged. Since, the petitioner has not completed

240 days prior to the orders passed in reference No. 124/2003 *i.e* 12.7.2006, his seniority and continuity shall be reckoned from that date he joined in pursuance to that order. He shall however not be entitled to any back-wages in view of the peculiar circumstances of the case discussed hereinabove. The issues are decided accordingly.

Issue No. 3 :

27. The respondents have raised an objection that since the petitioner has not completed 240 days in each calendar year and he has submitted an affidavit to the effect that he will not claim any seniority and other retrenchment benefits from the department or government at any stage, the petition is not maintainable. For the reasons detailed hereinabove more specifically issues No. 1 & 2, this Court has already recorded a finding that the affidavit is *void ab-initio* and the workman is entitled to the protection of Sections 25-G & 25-H of the Act even if a workman is not protected under section 25-F. The issue is decided against the respondents.

Issue No. 4 :

28. Nothing has been brought to my notice as to how the petition is hit by the delay and laches, nor any evidence has been led to show so. The petitioner had raised a demand notice on 13.8.2017 for his alleged termination *w.e.f.* Jan. 2015. The respondents have not led any evidence to show that the dispute had lost its character and had ceased to be such, by 2017 when the demand was raised. The issue is thus decided against the respondents.

Relief :

For the foregoing reasons discussed hereinabove *supra*, the application preferred by the petitioner under section 2-A of the Act is allowed. Resultantly, the respondents are directed to re-engage the petitioner. Since, the petitioner has not completed 240 days prior to the orders passed in reference No. 124/2003 *i.e* 12.7.2006, his seniority and continuity shall be reckoned from the date he joined in pursuance to the said order. He shall however not be entitled to any back-wages. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today this 28th day of May, 2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**IN THE COURT OF SHRI CHIRAG BHANU SINGH, PRESIDING JUDGE, H.P.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Ref. No. : 44 of 2016

Instituted on : 6-5-2016

Decided on : 30-5-2019

Madan Lal s/o Shri Ram Singh, Vill. Jaglog P.O. Gunaha-Kalan, Teh. Nalagarh, Distt. Solan, H.P. through Shri J.C. Bhardwaj, President, HP AITUC, Saproon Solan, H.P. . . . *Petitioner.*

1. M/s Bhojia Dental College & Hospital, Budh, Baddi, Tehsil Nalagarh, Distt. Solan, H.P. through its Secretary.
2. M/s Bhojia Dental College & Hospital, Budh, Baddi, Tehsil Nalagarh, District Solan, H.P. Through its Principal . Respondents.

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri J.C. Bhardwaj, AR.

For respondents: Shri J.J. Lal, AR.

AWARD

The following reference was received for adjudication from the appropriate government:

“Whether termination of the services of Shri Madan Lal s/o Shri Ram Singh, Village Jaglog, P.O. Gunaha, Tehsil Nalagarh, District Solan, H.P. w.e.f. 01.01.2015 by the Secretary, M/s Bhojia Dental College & Hospital, Bhud, Tehsil Baddi, District Solan, H.P. without complying with the provisions of the Industrial Disputes Act, 1947, as alleged by the workman, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. In pursuance to the reference, it is the case of the petitioner, as it emerges from the statement of claim that he came to be appointed as a Dental Lab. Attendant on 5.2.2007 and continued working as such till his illegal removal. The petitioner was drawing ₹ 7800/- at the time of his termination. Though, the appointment was offered to him on contract basis for a period of eleven months at the first instance but it was likely to continue thereafter without any pre-condition. Instead of confirming his service, the respondent terminated him illegally, which was not only an unfair labour practice but against the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act) and even against the model standing orders 4-A.

3. It is also the case of the petitioner that his termination was not termination simplicitor but based on the allegations/stigma that he was not punctual in attending his work. His work and conduct was not upto the mark as he was habitual of remaining absent from duties. The aforesaid allegations were stated to be baseless as is clear from the show cause notice dated 1.12.2014 issued by the respondents, which was duly replied by the petitioner on 8.2.2014.

4. It is further the case of the petitioner that the aforesaid findings relating to misconduct are not only unsubstantiated but have been considered against the petitioner without holding any enquiry and it is also in contravention of clause-II of the appointment letter dated 5.2.2007, issued by the respondents themselves. The respondents have not served one month's notice while ordering his termination and even no fair and proper enquiry was ever held before terminating the services of the petitioner which discloses non-application of mind and is rather a colorable exercise of power.

5. It is further the contention of the petitioner that he was in continuous service of the respondents for the purpose of Section 25-B of the Act and had completed more than 240 days in each calendar year. The petitioner has thus become entitled to certain protections, more

particularly Sections 25-G and 25-H of the Act. The respondents had not only violated the aforesaid sections but their action is also violative of Articles 14 & 16 of the Constitution of India. The respondents have followed the principles of “hire and fire” and that too in a very arbitrary manner. There was no proved stigma against the petitioner nor any chargesheet or enquiry was ever held against him. The work and conduct of the petitioner throughout his service was excellent and he was never served with any explanation except the notice dated 1.12.2014. His termination is also violative of the provisions of Section 25-F as no notice or retrenchment compensation has been paid to him.

6. The petitioner thus prays that the respondents be directed to re-instate the petitioner since the date of his illegal termination along-with full back-wages, seniority and other consequential benefits.

7. While contesting the claim the respondents have *inter-alia* raised preliminary objections *vis-à-vis* misjoinder, estoppel and maintainability.

8. Per the respondents the case of the petitioner specifically falls under the provisions of Section 2(o)(bb) of the Act. There is no order of termination oral or in writing. The cessation is by efflux of time, and that too imbibed in the nature of employment.

9. On merits, the case set up by the respondents is that the petitioner was engaged on contractual basis and he consciously accepted the contractual appointment initially for eleven months and that too on the terms and conditions specified therein. He was appointed as a Dental Lab. Attendant on 7.2.2007 and his contract was extended from time to time, lastly renewed from 1.7.2014 till 31.12.2014. Thereafter, it was not renewed and all his claims stands settled. It is thus denied that he was illegally removed from service *w.e.f.* 31.12.2014. The other averments were denied by the respondents. Per them, the contractual appointment ceased on 31.12.2014, on the expiry of the last extension of contractual employment.

10. As per the respondents there was thus no question of holding disciplinary proceedings in his case. No letter was issued to the petitioner on account of his removal. It was on account of pre-ordained settled terms in accordance with Section 2(o)(bb) of the Act.

11. It is denied that one month’s notice was required to be served to the petitioner. Per the respondents no fresh hands had been engaged as Dental Lab. Attendant.

12. It is thus prayed that the reference may be dismissed, being devoid of any merit.

13. While filing rejoinder, the petitioner controverted the averments in the reply and further reiterated those in the statement of claim.

14. I notice that on 23.6.2017, the following issues came to be framed by my Learned Predecessor:

1. Whether the termination of the services of the petitioner *w.e.f.* 1.1.2015 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified? . .OPP.
2. If issue No. 1 is proved in affirmative, to what relief of service benefits the petitioner is entitled? . .OPP.
3. Whether the petition is not maintainable as alleged? . .OPR.

4. Whether the petition is bad for misjoinder of parties?

. .OPR.

Relief:

15. Having considered the pleadings, evidence and other attendant material placed on record, my findings on the issues framed are thus:—

Issue No. 1 Yes.

Issue No. 2 Entitled to reinstatement with seniority and continuity but without any back-wages.

Issue No. 3 No.

Issue No. 4 No.

Relief Reference answered partly in favour of the petitioner and against the respondents per operative part of award.

REASONS FOR FINDINGS

Issues No. 1 to 3 :

16. All these issues are being taken up together as they are correlated and intermingled.

17. It is the specific stand of the respondents that since the case of the petitioner specifically falls under the provisions of Section 2(oo)(bb) of the Act, therefore, other provisions of the Industrial Disputes Act will not be attracted. In this behalf it is further the contention of the Ld. AR for the respondents that the petitioner being a contractual employee, the protection of Section 10 of the Act will not be available to the petitioner and as such the reference is bad in the eyes of law.

18. In the aforesaid circumstance, it would be apposite to first and foremost deliberate upon the objection so raised by the respondents and thereupon go to the factual matrix of the case.

19. Undoubtedly, the petitioner came to be appointed as a Dental lab. Attendant on 7.2.2007 *vide* Ex. PW-1/A. The said offer of appointment indeed was on contractual basis and that too for a period of eleven months. The perusal of the documents placed on record by RW-1 Shri Vikram Bhojia shows that the contracts were further renewed thereupon *vide* Ex. R-4 on 14.3.2008, *vide* Ex. R-6 on 1.9.2008, *vide* Ex. R-9 on 1.5.2009, Ex. R-10 on 19.8.2009, Ex. R-12 on 9.9.2009, Ex. R-14 on 12.3.2010, Ex. R-16 on 1.5.2010, Ex. R-17 on 26.10.2010, Ex. R-18 on 5.5.2011, Ex. R-19 on 10.8.2013, Ex. R-20 on 31.1.2014 and Ex. R-21 on 12.6.2014. It is thus apparent that the petitioner continued working uninterruptedly from 5.2.2007 till 1.12.2014, though subject to renewal of the contracts between the parties.

20. The respondents have vociferously urged that in view of the provisions of section 2(oo)(bb) of the Act, the termination of the petitioner cannot be said to be a “retrenchment”. It was in fact a case of non-renewal of the contract and as such the action of the respondent cannot be said to be a “retrenchment” *per se*.

21. The perusal of record which has been discussed hereinabove clearly shows that the petitioner had been working for about seven years. His job was not casual or seasonal in nature.

He was working as a Dental Lab. Attendant and that too in a college run by the respondents. The renewal of contracts with the petitioner from time to time and for almost seven years, as is clear from the narration hereinabove clearly shows that the contractual employment was rather resorted to as a mechanism to frustrate the claims of the petitioner to become a regular or permanent employee. It is further testified by recital Mark P-1, a settlement arrived between the workers union and the respondents that all those employees who have completed five years on contractual basis shall be regularized. The said settlement was effected on 2.7.2013. Judged by the nature of work which the petitioner was undertaking, it can well be presumed that the work was of a permanent nature and the respondents were indeed resorting to contractual employment just to frustrate the rights of the petitioner. It was rather a camouflage to take out the petitioner/workman from the ambit of the provisions of the Act.

22. In a similar situation our **own Hon'ble High Court in Manoj Kumar Sharma Vs. HRTC and another, 2007 Lab. IC 3308**, has held that in such circumstances the case will not fall under Section 2(o)(bb) of the Act and will be covered under the expression "retrenchment". Such acts of engaging workmen by giving them fictional breaks was further held not *bonafide*.

23. Not only this subsequently, the Hon'ble Supreme Court of India in *Sudershan Rajpoot Vs. Uttar Pradesh State Road Transport Corporation* (2015) 2 SCC 317, has further held that a workman engaged on contractual basis for more than three years and having rendered more than 240 days of service in a calendar year until his termination and yet being engaged on contractual basis is statutorily prohibited as it amounts to unfair labour practice as defined under Section 2 (r) read-with section 25-T and 25-O of the Act.

24. Even otherwise clause-X of the 5th schedule of the Act envisages that if an employer employees workmen as "badlies, casuals or temporaries and continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen, the action would squarely falls within the fore corners of "unfair labour practice", defined under Section 2(ra) of the Act.

25. Keeping in view the mandate of the law discussed hereinabove and the law laid down by the Hon'ble Supreme Court, it is more than clear that the arguments of the respondents that the reference is not maintainable as the petitioner specifically falls under the provisions of section 2(o)(bb) of the Act cannot be countenanced.

26. Now, adverting to the factual matrix of the case. The petitioner came to be terminated *w.e.f.* 31.12.2014 as is clear from Ex. R-22 on record. In fact it was in the shape of a show cause notice. It would be apposite to reproduce para 3 of the aforesaid show cause notice, which reads as under:

"However, in spite of numerous extensions given to you and even after orally counseling you to improve upon your work, conduct and attendance it is continuously experienced that you are not serious about your duties and habitually remaining absent from your duties on one pretext or the other. In the last extension of your contractual appointment vide letter dated 12.6.2014 as detailed above, you were specifically fore-warned that the extension till 31.12.2014 is being provided as last and final chance to bring in desired improvement in your work, conduct and attendance/punctuality. But it is found that you remained careless to your duties and absents from duties off and on unauthorizedly and without any prior intimation, which reflects that you are no more interested in the job in this institution".

27. The text and tenor of the show cause notice in fact is that the petitioner was not working upto the expectations of the respondents. His work, conduct and attendance/punctuality was found wanting. He was also stated to be careless towards his duties and absenting from duties off and on, unauthorizedly and without any prior intimation. It smacks of non diligence in duty and hence, the termination.

28. It is thus not a case of non-renewal of contract simplicitor. Since, the petitioner was found wanting on many counts, the respondents had thought of terminating his services. For non-renewal of contract, the respondents had to simply refuse to renew the same and bid him adieu. On the expiration of the contract the petitioner had just to be relieved.

29. In the case in hand, however, the termination was proceeded by some misconduct attributed to the petitioner, being unauthorized absenteeism and carelessness of duties. In that case the respondents had to hold some sort of enquiry to prove the charges so attributed to the petitioner. No such steps have been taken by the respondents. RW-1 Shri Vikram Bhojia in his affidavit Ex. RW-1/A has also tried to highlight and portray that the petitioner was generally absenting from work unauthorizedly and he has also enumerated instances in this behalf. He has however admitted in his cross-examination that the petitioner had worked with the respondents for seven years. He has also admitted that all the contractual employees who had completed five years were to be regularized by the respondents as per settlement mark P-1, which bears his signatures. He has also admitted that the show cause notice was issued because his work and conduct was not upto the mark but no enquiry had been conducted against the petitioner. He has also admitted that the petitioner had completed 240 days in each calendar year.

30. As has been held hereinabove since the respondents had no protection under the provisions of Section 2(oo)(bb), they had to follow the provisions of the Act and even the terms and conditions incorporated in Ex. PW-1/A, the appointment letter provided issuance of prior notice. Since, the termination of the petitioner tantamounted to "retrenchment", he was indeed entitled to the protection of section 25-F and the stipulation in the appointment letter Ex. PW-1/A, before doing away with the services of the petitioner. Admittedly, nothing was done on both the counts. The termination of the petitioner thus amounts to "retrenchment", within the meaning of Section 2-oo of the Act. In this behalf support can ably be drawn from another judgment of the Hon'ble Supreme Court titled as **Devinder Singh Vs Municipal Council, Sanaur, 2011 LLR 785**.

31. The learned AR for the respondents has placed reliance upon a judgment titled as **State of Uttar Pradesh and another Vs. Kaushal Kishore Shukla 1991 SCR (1) 691**. I am afraid the ratio of the aforesaid judgment does not apply to the present case. In Kaushal Kishore Shukla's case, based on the result of the preliminary enquiry, no formal charges were framed against the respondent, no officer was appointed to hold the departmental enquiry and instead the competent authority chose to terminate the respondent therein and it was this act which came to be set aside by the Hon'ble Supreme Court. The learned AR has also placed reliance on the case of **Ajay Bhan Singh and Anr. Vs. State of Uttar Pradesh, through Principal Secretary Agricultural Education and 2 Ors, Service Single No. 8115 of 2009** (uncertified copy has been placed on record) to contend that no enquiry was required to be initiated in case the service of a daily wager was to be terminated for his alleged misconduct. The same also does not come to the rescue of the respondent as admittedly in the case in hand the termination has been held to be "retrenchment" as per the provisions of section 2(oo). In those circumstances the question of misconduct attributed to the petitioner will not change the complexion of the case as admittedly no notice or retrenchment compensation had been granted to the petitioner before his termination. The termination is held to be bad being in violation of Section 25-F of the Act. It was not that the employment of the petitioner had come to an end on

the cessation of the contract alone. The respondents had been using the contracts as a camouflage to deprive continuity of service to the petitioner. It continued for seven years which is undoubtedly against the mandate of law, discussed hereinabove. The termination of the petitioner was thus, nothing else but retrenchment.

32. For all the reasons discussed hereinabove, the termination of the petitioner is held to be bad in the eyes of law. It is accordingly quashed and set aside. The respondents are directed to re-engage the petitioner on the same post and place forth-with. The petitioner shall be entitled to seniority and continuity from the date of his termination, though without any back- wages. All these issues are decided accordingly.

Issue No. 4 :

33. Nothing has been urged nor anything brought to my notice as to how the petition is bad for misjoinder of parties. No doubt respondent No. 1 is looking after the affairs of the Bhojia Dental College and Hospital, Baddi but admittedly the principal of the college would also be looking after the day to day functioning of the college and since the petitioner was working as Dental Lab. Attendant, he is a necessary party to the lis. Nothing to the contrary has been pleaded or proved on record. The issue is thus decided against the respondents and in favour of the petitioner.

Relief :

For all the foregoing reasons discussed hereinabove *supra*, the reference is answered partly in favour of the petitioner and against the respondents. The respondents are directed to re-instate the petitioner on the same post and place forth-with. The petitioner shall be entitled to the seniority and continuity, however, without any back-wages. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today this 30th day of May, 2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**IN THE COURT OF SHRI CHIRAG BHANU SINGH, PRESIDING JUDGE, H.P.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Ref. No. : 82 of 2014

Instituted on : 26-12-2014

Decided on : 10-5-2019

The Workers of M/s Raja Forging and Gears Ltd. C/o Shri Bhanu Ram s/o Shri Data Ram
r/o Village Chaka, P.O Kaduwana, Baddi, District Solan, HP. . *Petitioner.*

The Employer, M/s Raja Forging and Gears Ltd., Sai Road Baddi, District Solan, HP.

. .Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri R. K. Khidtta, Advocate.

For respondent : Shri Dinesh Gupta, Advocate.

AWARD

The following reference was received for adjudication from the appropriate government:

“Whether the demand raised by the workers of M/s Raja Forging and Gears Limited, c/o Shri Bhand Ram, s/o Shri Data Ram, r/o Village Chaka, P.O. Kaduwana, Baddi, Distt. Solan, H.P. regarding payment of bonus vide demand notice dated nill received in the Labour Office on 09-05-2013 (copy enclosed) for the year 2011-12, to be fulfilled by (i) the employer, M/s Raja Forging & Gears Limited, Sai Road, Baddi, Distt. Solan, H.P. (Gear Unit) (ii) M/s Raja Forgings & Gears Limited, SCO-860, Shivalik Enclave, Manimajra, Chandigarh, (Regd. & Corporate Office) is legal and justified? If not, what relief and benefits and from which date the workers are entitled to from the above management/employer(s)?”

2. In short, the only grouse set-up by the petitioner in the statement of claim is that they have not been paid bonus for the year 2011-12. The workers thus sought directions that the respondent may be directed to pay the bonus for the year 2011-12 as per the Bonus Act and the profit owned by the company. They also sought Rs. five lakhs as damages for the harassment caused to the workers.

3. While contesting the claim the respondent raised preliminary objection that the company was running into heavy losses since the year 2010 and the Hon’ble Punjab & Haryana High Court had already ordered the winding up of the company and appointed an official liquidator *vide* order dated 3.1.2014. Currently, the unit is under the control of the official liquidator as such any claim in respect of the labour dispute had to be marked by the Hon’ble Court to the liquidator. The copy of the order passed by the Hon’ble Court is also enclosed alongwith as annexure R-1.

4. On merits, it is contended by the respondent that bonus was being paid as per the statutory requirements whenever the company was doing well. However, for the past six years, the company had suffered huge losses and even the Hon’ble Punjab & Haryana High Court has ordered it’s winding up. Therefore the question of bonus does not arise.

5. While filing rejoinder, the petitioner controverted the averments in the reply and further reiterated those in the statement of claim.

6. I notice that on 3.9.2016, the following issues came to be framed by my Learned Predecessor:

1. Whether the demands raised by the workers of the petitioner union regarding payment of bonus *vide* demand notice dated nill received in the Labour Office on

9.5.2013 for the year 2011-12 to be fulfilled by the respondents are legal and justified as alleged ? . .OPP.

2. If issue No. 1 is proved in affirmative, to what relief the petitioner union is entitled? . .OPP.

3. Relief:

7. Having considered the pleadings, evidence and other attendant material placed on record, my findings on the issues framed are thus:—

Issue No. 1 No.

Issue No. 2 Not entitled to any relief.

Relief Reference answered in favour of the respondent and against the petitioner union per operative part of award.

REASONS FOR FINDINGS

Issues No. 1 & 2 :

8. Both these issues are being taken up together as they are correlated and intermingled.

9. The respondents have placed on record the orders dated 3.2.2014 and 12.5.2014 (mark X-1 to mark X-3) passed by the Hon'ble Punjab & Haryana High Court in CP No. 58-2010 (O&M). The perusal of the same shows that the company petition came to be filed somewhere in the year 2010 and was eventually ordered to be wound up on 12.5.2014 *vide* mark X-2. The contention of the respondent company that they were running in losses since the year 2010, thus, are supported by the fact that the company petition had come to be filed in the year 2010 itself. It can thus be presumed that the financial health of the company was not well after the year 2010. The claim of the petitioners pertains to the year 2011-12. The demand of the workers for bonus is thus not sustainable on this count alone, for an insolvent company cannot and is not statutorily required to pay the bonus to its employees.

10. Even otherwise as per Section 446 of the Companies Act, 1956, when a winding order has been made or an official liquidator has been appointed, no suit or other legal proceedings shall be commenced, or if pending at the date of the winding up of order, shall be proceeded with against the company, except by leave of the Court/Tribunal and subject to such terms as the Court/Tribunal for winding up the company, may impose. No leave has been sought by the petitioner union from the Court which passed the winding order, oblivious of the fact that in the reply itself *i.e* as far back as 2.8.2016, said fact had been brought to the notice of the petitioners. Without the express permission of that Court, *i.e* the Hon'ble Punjab & Haryana High Court, the present reference could not have proceeded further. The petitioners made no endeavor either to seek permission of the Hon'ble high Court of Punjab & Haryana or to approach it with respect to their claim. The said factum having been brought to the notice of the petitioner, steps were required to have been taken in consonance with the provisions of section 446 of the Companies Act, 1956, which was not done. This Court is thus constrained to hold that the demands raised by the petitioner union are not legal and justified and no relief can be granted to them as claimed at this stage. Both these issues are decided accordingly.

Relief:

For the foregoing reasons discussed hereinabove *supra*, the reference is answered against the petitioner union. Resultantly, the claim filed by the petitioner union is dismissed. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today this 10th day of May, 2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

Preethi Workers Union

V/s

M/s Preethi Kitchen Appliances Pvt Ltd & Anr.

29-05-2019.

Present: None.
Sh. Rajeev Sharma, Ld. Csl. for respondent.

Thrice notices have been issued to the parties. Lastly on 24.04.2019 while issuing notice through registered post tracking report was also sought from the postal department.

None has appeared on behalf of the petitioner. Sh. Rajeev Sharma Advocate puts in appearance on behalf of the respondent and has filed memo of appearance today.

The appraisal of the record shows that while the Industrial Dispute was raised by the President (Sh. Rajeev Sharma) and General Secretary (Sh. Ashwani Kumar) of the preethi Workers Union, the permanent address of either of the petitioner has not been in-cooperated by the authorities below. The only address recorded in the reference is President/General Secretary Preethi Workers Uion (INTUC) Bharatgarh Road, Sallewal, P.O. Rajpura, Tehsil Nalagarh, District Solan.

As per the report of the postal department the notices have been received unserved as the company is stated to have closed down. The said factum is also admitted by the Ld. Csl. for the respondent, who submits that the company is now run in the name and style of M/s Penguin Electronics.

Despite repeated efforts this court is not in a position to serve the petitioner, more particularly for want of better particulars. The least, the labour department could have done was that, at least the complete and permanent addresses of the petitioners should have been incorporated in the reference. It was not done. The department would be well advised to keep the said facts in view while referring fresh matter to this court, as this flaw to have been noticed in many of the references even earlier. It is thus difficult. May impossible for this court to serve the

parties for want of complete particulars. For want of correct & complete addresses this court cannot proceed any further and there is no way the complete & correct address can be sought by this court.

For all the reason discussed above, this court is constrained but to dismiss the reference for want of complete particulars. Ordered accordingly. The reference is dismissed in aforesaid terms. Let, a copy of this order be sent to appropriate government for publication in the official gazette. Be consigned to records after completion.

Announced
29.05.2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**IN THE COURT OF SHRI CHIRAG BHANU SINGH, PRESIDING JUDGE, H.P.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Ref. No. : 18 of 2017

Instituted on : 10-1-2017

Decided on : 2-5-2019

Virender Chauhan s/o Shri Ram Singh, Sanjay Verma s/o Shri Rajinder Verma and Smt. Sushma Chauhan w/o Shri Virender Chauhan Through: J.C. Bhardwaj President, HP- AITUC, H.Q. Saproon, Solan, H.P. . .*Petitioner.*

1. Himachal Pradesh Horticultural Produce, Marketing and Processing Corporation Ltd. (Nigam Vihar- Shimla-171002) Through its Managing Director.
2. Deputy General Manager, Himachal Pradesh Horticultural Produce, Marketing and processing Corporation Ltd. HPMC Cold Storage, Sector-2, parwanoo, 173220. . .*Respondents.*

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri J.C Bhardwaj, AR.

For respondents: Shri H.C Sharma, Advocate.

AWARD

The following reference was received for adjudication from the appropriate government:

“Whether the demands raised by Shri Virender Chauhan s/o Shri Ram Singh, Shri Sanjay Verma s/o Shri Rajinder Verma, Smt. Sushma Chauhan w/o Shri Virender Chauhan through Shri J.C. Bhardwaj, President,

H.P. A.I.T.U.C., HQ: Saproon, District Solan, H.P. to regularize their Services in the Himachal Pradesh Horticulture Produce Marketing and Processing Corporation Limited, Nigam Vihar, Shimla-2 and granting them pay scales, allowances, other service benefits correspondent to same or similar category of employees of the said corporation raised before the Managing Director, M/s Marketing & Processing Corporation Limited, H.P.M.C., Nigam Vihar, Shimla, H.P. and the Deputy General Manager, M/s Marketing & Processing Corporation Limited, HPMC, Cold Storage, Sector-2, Parwanoo, District Solan, H.P. vide demand notice dated nil received in Labour Office Solan on 05.03.2016 (copy enclosed) are legal and justified? If yes, retrospectively from which date, what monetary and other service benefits the employees/workers employed in the above Corporation are entitled to from the above employers/management?"

2. The petitioners while filing the statement of claim have averred that they are presently working as salesmen at HPMC Juice Bar Jabli and Parwanoo respectively. They came to be initially appointed by the Corporation on muster roll basis as daily wagers in the year 1995-96, but later on the names of these workmen were transferred to the rolls of a name lending contractor.

3. Per the petitioners their services were transferred to the contractor only for payment of wages but the supervision and control for all purposes remained in the hands of the Corporation. The nature of their work is permanent. The work which was being performed by these workmen is neither incidental nor seasonal in nature. The services rendered by them as salesmen was with the Corporation and as such their names being reflected on the rolls of the contractor was a shame and amounted to unfair labour practice which is prohibited under section 10 (2) of the Contract Labour (Regulation & Abolition) Act, 1970.

4. Further per the petitioners they are in continuous employment of the corporation and have completed 240 days in each calendar year since their initial engagements. They have been selling juice and other products of the Corporation as per sale targets given to them by the Dy. General Manager of the Corporation every year. Their work is supervised directly by the senior officers of the Corporation and they are working under the direct control of the Corporation.

5. Further per the petitioners, though initially they were engaged directly by the Corporation, later on the respondents started reflecting the name of the petitioners through the so called contractors. The entries in this behalf were false and merely to deprive them from the benefits being availed by their counterparts, directly employed as salesman by the Corporation. Though, the contractors kept on changing but the workmen remained continuously in service. The contract licence in-fact was obtained only for the work of loading and unloading, whereas the petitioners were working as salesmen in the juice bars.

6. The workmen had submitted a representation to the respondents on 1.5.2014 whereby they sought absorption in permanent service of the Corporation and that they be paid wages at par with the directly employed workmen of the Corporation. Since, the workmen/petitioners were doing the work of perennial nature but were being paid meagre wages, they sought parity with the employees of the Corporation on the principles of "equal pay for equal work".

7. It is thus averred by the petitioners that their conditions of service were discriminatory and they were entitled to avail parity with the directly employed workmen as per the provisions of Rule 25 (2)-(V) (a) of the Contract Labour (Regulation and Abolition) Act 1970. They were entitled to the same service conditions as was being availed by the directly employed

workmen. The action was thus stated to be an “unfair labour practice”, as per the provisions of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act). The action of the respondent was further stated to be violative of the provisions of Article 14 & 16 of the Constitution of India.

8. It is further averred by the petitioners that where the workmen employed by the contractors performed same or similar nature of work as the workmen directly employed by the principal employer, they shall be entitled to the same wage rates, holidays, hours of work and other conditions of service.

9. It is thus prayed that the name of the petitioners may be declared as regular employees (salesmen) of the respondent Corporation and all service benefits may be granted to them at par with the similarly situated regular salesmen of the respondent Corporation with retrospective effect.

10. While contesting the reference the respondents have raised a preliminary objection that this Court has no jurisdiction to entertain the present petition as there exists no relationship of an employer and an employee interse the parties. The petitioners are not the workers of the Corporation.

11. On merits, apart from averring that the petitioners are estopped to claim the relief of regularization due to their acts, conduct and acquiescence, the workmen do not fall under the definition of workmen. Per the respondents they are the employees of the contractor and their monthly salaries are released by the contractor itself. As per the Corporation the workmen had been employed by a contractor and they are presently working for a contractor namely Shri Rajinder Pal Tegta. It is denied that initially the workmen were directly employed by the Corporation on muster roll basis, as daily wagers, during the year 1995-96.

12. It is further averred by the respondent that admittedly initially one Shri Rajiv and Sanjay were working with the Corporation on muster roll as daily wagers in the year 1995-96 and they had completed only 244 and 219 working days respectively. However, thereafter they are working with the different labour contractors of the corporation from time to time. It is denied that the petitioners Virender Chauhan and Sushma Chauhan were working as daily wagers on muster roll since 1995-96. As per the respondent they were engaged by the contractor of the Corporation *w.e.f.* 1.10.2002 and 14.6.2001 respectively. It is thus averred that the Corporation is not in any way even remotely connected with the present workers and as such the claim filed is not maintainable.

13. It is also denied that the Corporation has any supervision or control for any purpose directly or indirectly over the said petitioners. Per the respondent it is only the contractor who is responsible for their salaries and work being rendered by them. The respondents however admitted in the later part of the reply that petitioners Sanjay Verma was initially engaged in HPMC purely on muster roll basis in the year 1995 during the construction of a cold storage unit in Parwanoo, however, he had not completed 240 days continuously.

14. The respondents further denied that the job and work performed by the petitioners was similar to the workmen directly employed by the Corporation. Since the petitioners are the employees of the contractor, it is the contractor who executes the work allotted to them and it is the contractor who is the controlling and supervising authority of these workmen and the accounts etc. are also maintained by the contractor. It is specifically averred by the respondents that the sales etc. at the juice bars are being executed by the contractor and not by the respondent Corporation or any of its employees. It is thus prayed that the claim be dismissed being devoid of any merits.

15. While filing rejoinder, the petitioner controverted the averments in the reply and further reiterated those in the statement of claim.

16. I notice that on 22.8.2017, the following issues came to be framed by my Learned Predecessor:

1. Whether the demands raised by the petitioners *vide* demand notice dated nill received in the Labour Office, Solan on 5.3.2016 are legal and justified? . . .*OPP*.
2. If issue No.1 is proved in affirmative, to what relief the petitioners are entitled? . . .*OPP*.
3. Whether this Court has no jurisdiction to entertain the present petition, as alleged? . . .*OPR*.

Relief:

17. Having considered the pleadings, evidence and other attendant material placed on record, my findings on the issues framed are thus:—

Issue No. 1 Yes.

Issue No. 2 As per operative part.

Issue No. 3 No.

Relief: Reference answered in favour of the petitioners and against the respondent per operative part of award.

REASONS FOR FINDINGS

Issues No. 1 to 3 :

18. All these issues are being taken up together as they are correlated and intermingled.

19. The case set out by the petitioners in the demand notice has been reiterated in the statement of claim literally verbatim.

20. It is not disputed that that the petitioners were working as salesmen in the juice bars. Admittedly, one of the petitioners Sanjay Verma started working somewhere in the year 1995-96. He was initially engaged on muster roll basis by the respondent corporation and thereafter he ended up working on the rolls of the contractor. Even the petitioners Virender Chauhan and Sushma Chauhan have admittedly being working with the respondents since 1.10.2002 and 14.6.2001 respectively, but, they are stated to have been engaged by the contractor directly. To this limited extend parties are not at variance.

21. As per the respondents the petitioners have not been directly employed by them. They are not the principal employer and the workmen have been employed by the contractor and presently they are working with one Shri Rajinder Pal Tegta. Further per the Corporation they have no supervisory control for any purpose, directly or indirectly over the petitioners and it is only the contractor who is responsible for their salaries and work rendered by them. It is also the averred case of the respondent Corporation that the petitioners were and are being allocated

work by the contractor who executes the work allotted to him and it is the contractor who is the controlling and supervisory authority of these workmen. The accounts etc. are also maintained by the contractor. The sales etc. at the juice bars are also being executed by the contractor or not by the respondent Corporation or its employees.

22. This being the stand of the respondent Corporation, when the evidence on record is scanned, it however transpires that the petitioners have been directly working under the control and supervision of the Corporation. The averments of the respondent Corporation that they have no supervision or control for any purpose directly or indirectly and it is only the contractor who is responsible for their salaries and sale at the juice counters is falsified by the overwhelming evidence placed on record by the petitioners *vide* Exs. PW-1/B to Ex. PW-1/J, which clearly show that the Branch Manager of the respondent Corporation has been directly supervising the work of the petitioners, the Dy. G.M has been further setting sale targets for the petitioners. The petitioners were being given dress and other incentives through the Branch Manager. It is further clear from Mark X-32 to Mark X-94 that the casual leave and the station leaves were also being granted by the Branch Manager of the respondent Corporation.

23. One of the petitioner Shri Virender Chauhan, while appearing as PW-1 has specifically denied that he alongwith other petitioners were engaged by one Shri Udmi Ram and Rajinder Pal Tegta. Nothing in rebuttal has been proved on record by the respondent Corporation. So much so, none of the contractors have been examined nor any documentary evidence placed on record to rebut the case of the petitioners. There is nothing on record to remotely suggest that the salaries were being paid to the petitioners through the contractors.

24. The respondents on the other hand have examined one Marketing Assistant Shri Sanjay Kumar as RW-1. He has placed on record the muster-rolls pertaining to the petitioners *vide* Ex. RW-1/A to Ex. RW-1/N. Per him the petitioner Virender Chauhan was engaged through the contractor, the appointing authority of the petitioners is the labour contractor and the salaries is also disbursed through the contractor. However, neither the contractor has been examined nor anything has been produced to remotely show that the salaries of the petitioners were being disbursed through the contractor. The respondent corporation has also not lead any evidence to remotely show that their salaries were being released through the contractor. However, in the cross-examination, he has admitted that the petitioners are working as salesmen. Per him the produce from the Corporation comes to the shop and it is sold by the petitioners. He has also admitted that the sale proceeds are deposited by the petitioners with the accounts Branch of the HPMC directly. The sale targets are fixed by the Manager of HPMC. The witness does not know that the labour contractor monitors the working of the petitioners at the sale counters. He does not even know whether the contractor has a licence to keep labour. However, even per him the leave of the petitioners were sanctioned by the Manager of the HPMC. Apart from this no other evidence has been led by the respondents.

25. Thus, it is clear that one of the petitioner namely Sanjay Verma was initially engaged on muster roll by the respondent Corporation as is clear from Ex. RW-1/A to Ex. RW-1/M. Some documents have been annexed by the respondent corporation with the reply but no evidence has been led nor any functionary of the Corporation has come on record to testify its veracity. The documents show that somewhere in the year 1996, precisely on 18.4.1996 the Executive Engineer of the Corporation had sought the services of two J.E's, one Draughtsman, one Chowkidar and three supervisor/helpers from one M/s Him Builders (P) Ltd. The said demand was apparently made on the basis of the proceedings of a committee for the engagement of labour etc. for the construction of a cold storage complex at HPMC Parwanoo. Beyond this there is no evidence placed on record by the respondents. Even, if the same is taken into consideration, at best what could be inferred is that the respondent Corporation had sought

the services of three helpers for the construction of a Cold Store at Parwanoo in the year 1996. Beyond that nothing has been placed on record by the respondent Corporation.

26. The relationship of an employer and an employee is essentially a question of facts which is to be decided by the adjudicatory forum constituted under the Industrial Disputes Act taking in view the cumulative effect of the entire material produced before it. The evidence discussed hereinabove clearly shows that the petitioners have been continuously working under the control and supervision of the respondent Corporation since the very inception of their engagements. They have admittedly completed more than 240 days. The overwhelming evidence produced by the petitioners have gone un-rebutted. Based on the documents and the evidence submitted by the petitioners and for the lack of proper rebuttal to such documents it has to be presumed that the workmen indeed were the employees of the Corporation and not the contractor. They have admittedly been working uninterruptedly with the respondent Corporation since from very inception. In this behalf support can ably be drawn from the judgment of **Hon'ble Supreme Court titled as Kanpur Electricity Supply Corporation Ltd. Vs. Shamim Mirza, 2009 LLR 226.**

27. Since, the respondents have miserably failed to show that the petitioners were working under the control and supervision of the contractor it can well be presumed that the contention of the respondent Corporation was nothing but a subterfuge that the sales in the juice bars was being run by the contractor. The facts and circumstances narrated here-in-below further shows the administrative control of the respondent Corporation:

- A. The Branch Manager supervising the entire working of the juice bars and even posting one of the petitioner to a shop at Jabli where the petitioner was shown as the contractual salesman as is clear from Ex. PW-1/B and Ex. PW-1/C.
- B. The Dy. G.M fixing the percentage of commission to the salesmen at the Jabli bar.
- C. The sale targets being fixed by the Dy. G.M in respect of the juice bars at Jabli and Parwanoo vide Ex. PW-1/F and Ex. PW-1/G.
- D. The grant of uniforms to the staff working in the juice bars as is clear from Ex. PW-1/H.
- E. The grant of casual leave, station leave and the leave what kind due to the petitioners by the Branch Manager of the respondent Corporation as is clear from Mark X-32 to mark X-94.
- F. There being nothing on record to remotely suggest that the salaries and the wages were being paid to the petitioners through the contractor.

28. The aforesaid circumstances clearly show that the petitioners were in fact working with the respondent Corporation and not the contractor as is the case set-up by the respondent Corporation.

29. It is thus more than clear that the petitioners were admittedly performing work of a permanent nature since long and that too under the direct supervision and control of the principal employer *i.e.* the respondent Corporation. It is also more than clear that the petitioners were and are doing the same work and that too of a permanent nature as is being done by the employees engaged by the respondent Corporation on permanent basis. It can thus be well inferred that the respondent Corporation was indeed resorting to unfair labour practice, being in violation

of entry 10 of the 5th schedule and the provisions of Section 25-T. The petitioners have been continuously and regularly working with the respondent Corporation since the year 1995-96 and even assuming if the two of them were engaged after the year 2000 as is the case of the respondent Corporation. Admittedly, they are working continuously and uninterruptedly as casual employees for a long number of years, thus depriving them the status and privilege of a permanent employee. Moreover, nothing has been placed on record to show that they were in fact working with the contractor as is alleged.

31. By now it is fairly well settled that if a workman has worked continuously and uninterruptedly as a casual or temporary employee and the same is done with the object of depriving them the status and privilege of a permanent employee and they have been doing work of a permanent nature since long and that too under the direct supervision and control of the principal employer, regularization of the said employee is well justified and is even within the fore corners of law. Moreover, since it is conclusively proved on record that the respondent Corporation has been resorting to unfair labour practice, more so, employing the petitioners as casually and temporarily for years together which is indeed violative of the provisions of Item 10 of Schedule 5, this Court can issue preventive as well as positive directions to undo the wrong. In this behalf support can be drawn from the recent judgments of the Hon'ble Supreme Court titled as **Umrula Gram Panchyat Vs. The Secretary Municipal Employees Union and Ors. 2015 LLR 449** and **Chennai Port Trust Vs. The Chennai Port Trust Industrial Employees Canteen Workers Welfare Association and Ors. 2018 LLR 612**.

32. For all the reasons detailed hereinabove it is held that this Court has the jurisdiction to entertain the present reference as the petitioners are the employees of the respondent Corporation and there does subsist a relationship of an employer and an employee between the parties. The petitioners have been performing work of a permanent nature since long under the direct supervision and control of the respondent Corporation. The respondent has been resorting to "unfair labour practice" in violation of entry 10 of the 5th Schedule of the, Act.

33. As a sequel it is directed that the petitioners shall be deemed to be the regular employees of the respondent Corporation having been initially employed on muster roll basis from the date of their respective engagements. They shall be regularized on the completion of the requisite number of years counted from their initial engagements as per the policy of the State in vogue and as applicable to the respondent/corporation. They shall also be entitled to all consequential pecuniary benefits post regularization. All the issues are decided accordingly.

Relief :

For the foregoing reasons discussed hereinabove *supra*, the respondent Corporation is directed that the petitioners shall be deemed to be the regular employees of the respondent Corporation having been initially employed on muster roll basis from the date of their respective engagements. They shall be regularized on the completion of the requisite number of years counted from their initial engagements as per the policy of the State. They shall also be entitled to all consequential pecuniary benefits post regularization though. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today this 2nd day of May, 2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**IN THE COURT OF SHRI CHIRAG BHANU SINGH, PRESIDING JUDGE, H.P.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Ref. No. : 20 of 2014

Instituted on : 13-2-2014

Decided on : 10-5-2019

Satya Prasad Kothari s/o Late Shri Kulunand Kothari c/o Shri Rakesh Thakur, Village & P.O Kumarhatti Tehsil & District Solan, HP through J.C Bhardwaj, President, HP AITUC.

. *Petitioner.*

1. The Commandant (Chairman) Army Public School, Dagshai, 14 GTC, Subathu, Solan, HP.
2. The Principal, Army Public School Dagshai, District Solan, HP. . *Respondents.*

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri J.C Bhardwaj, AR.

For respondents: Shri Navlesh Verma, Advocate.

AWARD

The following reference was received for adjudication from the appropriate government:

“Whether termination of the services of Shri Satya Prasad Kothari s/o late Shri Kulanand Kothari c/o Shri Rakesh Thakur, Village Khali, P.O Kumarhatti, Tehsil & District Solan, HP w.e.f. 16.5.2012 by the (i) The Commandant (Chairman), Army Public School, Dagshai, 14 GTC, Subathu Solan, H.P. and (ii) The Army Public School, Dagshai District Solan without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back-wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. In pursuance to the reference it is the pleaded case of the petitioner that he came to be appointed as a Lower Division Clerk on 24.11.1988 and was posted as APS Dagshai. He came to be confirmed as such on 24.6.1989. He was promoted as Upper Division Clerk on 1.3.1999 and continued working as such till 16.5.2012 when his services were discontinued by holding a Court of enquiry, which was totally illegal as he was not a combatant. Being a civilian employee he was covered under the AWES Rules and Regulations and the provisions of the Industrial Disputes Act, 1947 (hereinafter to be referred as the Act). The enquiry was also stated to have not been conducted in accordance with the principles of natural justice.

3. It is further the case of the petitioner that he was chargesheeted on false fabricated grounds of overcharging the prospectus fees when he was assigned the duties of spot registration for an admission test to be held for classes V to IX. He and one Mr. Vinod Kumar had been detailed to perform the duties of spot registration. As per the petitioner he was performing his duties as assigned to him by the Co-ordinator of Examination Shri R.K Thakur, Vice Principal

and Ms. Meenakshi Sridhar PGT who has hatched a conspiracy against the petitioner and made a false complaint to the Principal against him.

4. He came to be chargesheeted on 27.2.2012. A memorandum of Article of charges was issued to the petitioner but without supplying any supporting documents including the list of witnesses (Annexure P-4 and P-5). The petitioner had submitted a detailed reply to the same. However, in the absence of documents he could not make an effective reply which has caused prejudice to the petitioner. On 26.4.2007, the petitioner had received a letter regarding the Court of enquiry under the provisions of Rule 178 of Rules and Regulations framed for Army Public Schools, Vol. I –AWES. The petitioner had replied to the said *vide* a letter dated 8.5.2012.

5. It is further the case of the petitioner that he was not allowed the services of a defence assistant of his choice. It was falsely mentioned in the proceedings that the petitioner declined to cross-examine the witnesses. The petitioner was not afforded any opportunity to examine his witnesses. The enquiry proceedings, thus, were grossly illegal and against the principles of natural justice.

6. As per the petitioner the Court of enquiry which was constituted with a malafide intention as Mr. R. K. Thakur who was the main manipulator against the petitioner was inducted as a member, which vitiated the Court of enquiry. Though, the petitioner had submitted a reply to the Court of enquiry but the Chairman ordered the termination of his services *vide* an order dated 16.5.2012 in an illegal and arbitrary manner as no show cause notice was issued to the petitioner before his termination and neither necessary facts and circumstances were taken into consideration prior to the order of termination. The petitioner had even filed an appeal after his termination but to no avail.

7. It is further the grouse of the petitioner that the disciplinary authority did not pass a speaking order on the out-come of the Court of enquiry and even the quantum of punishment was too harsh. The doctrine of proportionality has not been kept in the mind while imposing the punishment. The petitioner has been put to a harsh penalty for an act which he has not committed. The petitioner had put in twenty four long years in service and at no point of time he had been warned. Even the past record of the petitioner was not considered while terminating his services. The action of the respondent was stated to be not only violative of the provisions of the Industrial Disputes Act (hereinafter to be referred as the Act) but also Articles 14 and 21 of the Constitution of India.

8. It is thus prayed that the Court of enquiry conducted by the respondent be declared null, void and inoperative. The same may be set aside and quashed and the petitioner may be reinstated with all consequential benefits.

9. While contesting the reference the respondents have *inter-alia* raised preliminary objections *vis-à-vis* maintainability, suppression of material facts, estoppel and non-joinder of necessary parties. It is also averred by the respondents that this Court has no territorial jurisdiction to decide the lis as the Head Office of the Society is at New Delhi and as such the reference is without jurisdiction.

10. On merits, it is the case of the respondents that the petitioner was terminated *vide* order dated 16.5.2012 after holding an enquiry by the competent authority which had found the petitioner guilty of corrupt practices and breach of Rules and Regulations. The findings have been arrived at in the due course of enquiry after affording due opportunity of hearing at appropriate stages. The enquiry is stated to have been held in accordance with the due procedure and applicable Rules. It is denied that a Co-ordinator had hatched a conspiracy against

the petitioner. It is also denied that the petitioner had not been supplied with any documents alongwith the chargesheet.

11. Further, per the respondents a due enquiry had been conducted and the petitioner was afforded all possible opportunity of hearing. The report consisting of proceedings and findings were supplied to the petitioner *vide* a letter dated 26.4.2012 upon which a reply-cum-representation was made by the petitioner. The said representation was considered by the disciplinary committee in its meeting on 14.5.2012 in which the petitioner appeared personally. The committee after giving due consideration to the replies, statements and defence of the petitioner found the petitioner guilty and thereupon the petitioner was prosecuted in consonance with the provisions of Rule 178 of the Rules and Regulations for Army Public School, Vol-1 (2011). It is denied that the petitioner was not allowed the defence assistant of his choice. It is also denied that the petitioner was not allowed to cross-examine the witnesses. It is rather the contention of the respondents that the petitioner being a well educated person had himself signed the statement, declining to cross-examine the witnesses. The petitioner was duly informed that he had been found guilty of corrupt practices and breach of discipline.

12. The appeal filed by the petitioner was duly considered by the competent authority and as it was found without any merit, and hence was dismissed. It is also denied that the punishment imposed was excessive or whimsical.

13. It is thus prayed that the reference be dismissed being devoid of any merit.

14. While filing rejoinder, the petitioner controverted the averments in the reply and further reiterated those in the statement of claim.

15. Besides framing the issues on 14.9.2015, an additional issue had come to be framed on 20.12.2017 by my Learned Predecessor, which are as follows:

1. Whether the termination of the services of the petitioner is in violation of the provisions of the Industrial Disputes Act, 1947 as alleged? . . .*OPP.*
2. If issue No. 1 is proved in affirmative, to what service benefits the petitioner is entitled? . . .*OPP.*
3. Whether the petition is not maintainable as alleged? . . .*OPR.*
4. Whether the petition is bad for non-joinder of necessary parties? . . .*OPR.*
- 4-A. Whether this Court has no jurisdiction to adjudicate the dispute between the parties as alleged? . . .*OPR.*

Relief

16. Having considered the pleadings, evidence and other attendant material placed on record, my findings on the issues framed are thus:—

<i>Issue No. 1</i>	Yes
<i>Issue No. 2</i>	As per operative part
<i>Issue No. 3</i>	No

<i>Issue No. 4</i>	No
<i>Issue No. 4-A</i>	No
<i>Relief:</i>	Reference answered in favour of the petitioner and against the respondents per operative part of award.

REASONS FOR FINDINGS

Issues No. 1 & 2 :

17. Both these issues are being taken up together as they are correlated and intermingled.

18. In pith and substance the grouse of the petitioner is that the enquiry is bad in the eyes of law and against the well settled principles of natural justice as supporting documents were not supplied to the petitioner along-with the memorandum of Article of charge and in the absence of the documents, the petitioner could not make any effective reply to the chargesheet and that no show cause notice (2nd show cause) was issued to the petitioner before imposing the penalty of dismissal which also renders the action of the respondent illegal.

19. Per contra, it is the case of the respondent that the services of the petitioner had been terminated after a full-fledged disciplinary enquiry by the competent authority which had found him guilty of corrupt practice and breach of Rules and Regulations. It is denied that the petitioner has not been supplied any documents as alleged. Further per the respondents the petitioner was supplied the report consisting of proceedings and the findings *vide* a letter dated 26.4.2012 upon which a reply-*cum*-representation was made by the petitioner. The said representation was considered by the disciplinary committee on 14.5.2012 in which the petitioner appeared personally.

20. Keeping in view the respective circumstances espoused by the parties, look at the evidence led by the parties show that the Articles of charge were issued to the petitioner *vide* Ex. PW-1/E and the Court of enquiry was constituted on 26.4.2012. No doubt, the opinion of the Court and the remarks of the Commandant were issued to the petitioner *vide* Mark P-1 and Mark P-2, but, apparently no other documents were supplied to the petitioner. The petitioner has also in his affidavit categorically stated so in para 3 of the affidavit. There is no whisper in his cross-examination that the documents were supplied to the petitioner. Nor does the record show so.

21. The Bursar of the school Col. Ravinder Singh has appeared as RW-1. Apart from tendering his affidavit Ex. RW-1/A, he has placed on record the copy of the enquiry report dated 20.3.2012 as RW-1/B, findings of the Court of enquiry Ex. RW-1/C and the proceedings of the meeting of the disciplinary committee Ex. RW-1/D. The Rules and Regulations of the school have been placed on record *vide* Ex. RW-1/E and the constitution of the disciplinary committee Ex. RW-1/F. He has submitted in his affidavit that the petitioner had been supplied with all the documents alongwith the chargesheet. However, in his cross-examination he has admitted that no documents were supplied to the petitioner alongwith memorandum/chargesheet dated 27.2.2012 issued to the petitioner. He has also admitted that 2nd show cause notice was not issued to the petitioner before his termination.

22. It would be worthwhile to notice the Rules and Regulations relating to discipline and termination of service applicable to the employees of the respondent school, which have been annexed alongwith Ex. RW-1/E. As per the said Rules the employees can be terminated from

service in accordance with the procedure laid down in Article 171 and 172 of the said Rules. Article 186 further provides regulation *vis-à-vis* termination of service/resignation. Article 186 clearly stipulates that in case an employee is found guilty of corrupt practices and if his services are to be terminated on disciplinary grounds, a show cause notice would be issued to the delinquent employee explaining the reasons why his/her services are proposed to be terminated. Article 186 (g), *inter-alia* reads thus:

“186 (g) Services of confirmed employees can be terminated as follows:

- (i) On disciplinary grounds: Services of employees found guilty of corrupt practices, breach of code of conduct or breach of discipline, can be terminated by following the procedure enumerated in Articles 171, 172. A show cause notice would be issued to the delinquent employees explaining the reasons why his/her services are proposed to be terminated.”

23. The evidence on record does show that neither 2nd show cause notice was issued nor was the delinquent asked to explain the reasons by way of show cause notice as to why his services may not be terminated. The plea of the respondent that the proceedings and findings were supplied to the petitioner *vide* letter dated 26.4.2012, to which the petitioner had duly replied and the same was considered by the disciplinary committee on 14.5.2012 was in fact a preliminary exercise and cannot be combined to be a 2nd show cause notice or a notice under Article 186 (g), discussed hereinabove.

24. By now it is fairly well settled that any material to be relied upon during disciplinary proceedings had to be supplied in advance to the chargesheeted employee and the failure thereof is fatal. A reasonable opportunity to defend an employee in the proceedings and the principles of natural justice also demanded that none is condemned un-heard. This proposition is trite and can well be inferred from the ratio laid down by the Hon’ble Supreme Court in **Pepsu Road Transport Corporation Vs. Lachhman Dass Gupta and Another reported in 2002-1-LLJ286** and reiterated in **Government of Andhra Pradesh and Ors Vs. A.Venkata Raidu 2007-1-LLJ 178** and **Union of India and others Vs. S.K Kapoor 2011-II- LLJ-627 (SC)**.

25. The evidence on record discussed hereinabove clearly go to show that admittedly no documents were supplied to the petitioner along-with the chargesheet. It has also been categorically admitted by RW-1. The petitioner had to be supplied the documents to be relied by the respondents. The non supply of vital documents has indeed jeopardized the efforts of the petitioner to furnish his defence properly.

26. Adverting to the second aspect which too prominently comes to the fore that the petitioner was not afforded an opportunity to explain the reasons why his services are proposed to be terminated alongwith report of the enquiry proceedings. Admittedly, no opportunity was afforded to the petitioner to even reply to the enquiry report. The regulations of the respondents themselves, particularly article 186 envisaged that show cause notice had to be issued to the delinquent employee explaining the reasons why his services are proposed to be terminated. That being the position it was incumbent upon the respondents to have in fact issued a 2nd show cause notice on the proposed punishment.

27. Though, the judgment rendered by the Hon’ble Supreme Court in **Associate Cement Company Ltd. Vs. T. C Shrivastva and others 1984 (Supp.) SCC 87** did hold that unless the certified standing orders provide for a 2nd show cause notice on the proposed punishment is not a condition precedent for imposing punishment. But a subsequent judgment of the Hon’ble Supreme Court in **Union of India and Ors Vs. Ramzan Khan, 1991 LAB. 1. C.**

308 has categorically held that the delinquent's right to the supply of the copy of the enquiry report alongwith the recommendations, if any, in the matter of proposed punishment to be inflicted would be within the Rules of natural justice and not lost even after the 42nd amendment. The latest judgment of the Hon'ble Supreme Court in **Pawan Kumar Aggarwala Vs. General Manager-II and Appointing Authority State Bank of India and Ors. 2016 LLR 159** had further gone on to hold that a delinquent would at least be entitled to a show cause as to why the findings on such charges should not be reversed. It is thus apparent that in case the Regulation stipulate providing of a second show cause it is indeed a necessity. The principles of natural justice otherwise would have entailed providing a show cause/ oblivious of the Article 186, as is contemplated in Ex. RW-1/E. If not a 2nd show cause notice at least the comments/reply of the petitioner was the minimum which should have been called for by the respondents in respect of the findings recorded by the Court of enquiry. It was not done.

28. Both the situations discussed hereinabove clearly shows that the respondents had failed to abide by the well settled principles of natural justice. The non-supply of documents to be relied upon and the act of the respondents in not even seeking the reply/comments on the enquiry report has caused *de-facto* prejudice to the petitioner. It is thus manifestly clear that the non-supply of material to be relied upon during the course of enquiry has breached the principles of natural justice. The irresistible conclusion is that the delinquent had been denied reasonable opportunity of defending himself in the proceedings. The enquiry is thus held to be bad in the eyes of law. The enquiry was not fair and proper and as such is set aside and quashed.

29. Though, much was urged that the composition of the Court of enquiry was bad as the petitioner was not a combatant, however, the said objection is not sustainable as the enquiry was not conducted as per the regulations Ex. RW-1/E placed on record, as has been held hereinabove, and as such the same is quashed and set aside. Resultantly, the enquiry proceedings are held to be bad in the eyes of law. It has not been conducted in a fair and proper manner. As a sequel thereof the termination of the petitioner is set aside and quashed. He is ordered to be re-instated forthwith. The petitioner shall be entitled to the seniority and continuity, however, without any back-wages, more so keeping in view the nature of allegations attributed to the petitioner. Both these issues are decided accordingly.

Issue No. 3 :

30. Nothing is brought to my notice as to how the claim is not maintainable. For the reasons detailed hereinabove it is more than clear that the petitioner is not guilty of, "superssio veri and suggestio falsi". Rather the respondents have failed to abide by the basic cannons of natural justice causing defecto prejudice to the petitioner while enquiring into the misconduct so attributed to him. The issue is thus decided against the respondents.

Issue No. 4 :

31. Though, the respondents have raised a preliminary objection that the petition is bad for non-joinder of necessary parties but there is neither any averments nor any evidence to remotely show as to how it is bad for non-joinder of necessary parties. The challenge had been made by the petitioner to the procedural matrix, primarily on the ground that he was not afforded proper opportunity to defend his case. Apart from the management of the respondents none else was a necessary party to the lis. There are no allegations of malafide against anyone. The respondents have neither averred nor placed on record anything to remotely suggest as to who in fact was a necessary party to the lis except the respondents. The issue is thus decided against the respondents.

Issue No.4-A :

32. Though the respondents have averred that the petitioner is an employee of the Army Welfare Educational Society which is a registered body under the Societies Act having been registered in Delhi and as such the Courts in Himachal will have no jurisdiction to decide the lis. However, RW-1 has admitted that the Army Welfare Society is registered in Himachal Pradesh having registration No. 4964/87. It is not an establishment of the Army and is a private establishment though governed by the Rules formulated by the Army.

33. That being the situation and the School being situated within the territorial jurisdiction of this Court the State Government was and is competent to send the reference to the Industrial Tribunal. The appropriate Government in these facts and circumstances shall be the State and not the Central Government. "Appropriate Government" means the government of the state in whose territorial area the dispute arose. In the case in hand the dispute admittedly arose in H.P.

34. Moreover, where an industrial dispute arises between an employer and his workmen both residing within one state, the appropriate government having jurisdiction to refer the dispute for adjudication in the government of the state, where the dispute arises. Nothing to the contrary have been proved by the respondents. The issue is thus decided against the respondents.

Relief:

For the foregoing reasons discussed hereinabove *supra*, the reference is answered in favour of the petitioner and against the respondents. The respondents are directed to re-instate the petitioner forth-with. The petitioner shall be entitled to the seniority and continuity, however, without any back-wages, more so keeping in view the nature of allegations attributed to the petitioner. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today this 10th day of May, 2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

03-05-2019.

Present: None for petitioner.

Sh. Manoj Chauhan, Ld. Csl. for respondent No. 1.

Sh. Naresh Sharma, Ld. Csl. for respondent No. 2&3.

None has appeared for petitioner even today. Notice had been issued to the petitioner on 01.03.2019 returnable for 11.04.2019. Even on that date none had appeared for the petitioner. Notices were again ordered to be issued through registered post. A tracking report was also sought from the postal department. The report submitted by the Postal Authority shows that the items stands dispatched. However, none has put in appearance today on behalf of petitioner.

The perusal of the reference shows that the address of the petitioner has been reflected c/o President STKHEP Workers Union, Powari, District Kinnaur, H.P. The Conciliation Officer should have at least taken the pains of recording the permanent address of the petitioner also. Strangely he has not done so. Service has been duly affected on the address, so recorded in the reference, it will not be possible for this court to serve the petitioner in any other manner.

The matter has been called thrice but, none has put in appearance on behalf of the petitioner. It is thus apparent that the petitioner does not intend to prosecute the lis. In his absence it is difficult for this Court to proceed any further as even no claim has been filed. Except the reference there is nothing on record.

The same is thus dismissed as having not been pressed. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File, after completion be consigned to records.

Announced:
03-05-2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

03-05-2019.

Present: None for petitioner.

Sh. Manoj Chauhan, Ld. Csl. for respondent No. 1.

Sh. Naresh Sharma, Ld. Csl for respondent No. 2&3.

None has appeared for petitioner even today. Notice had been issued to the petitioner on 01.03.2019 returnable for 11.04.2019. Even on that date none had appeared for the petitioner. Notices were again ordered to be issued through registered post. A tracking report was also sought from the postal department. The report submitted by the Postal Authority shows that the items stands dispatched. However, none has put in appearance today on behalf of petitioner.

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Announced:
03-05-2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

03-05-2019.

Present: None for petitioner.

Sh. Manoj Chauhan, Ld. Csl. for respondent No. 1.

Sh. Naresh Sharma, Ld. Csl for respondent No. 2&3.

None has appeared for petitioner even today. Notice had been issued to the petitioner on 01.03.2019 returnable for 11.04.2019. Even on that date none had appeared for the petitioner. Notices were again ordered to be issued through registered post. A tracking report was also sought from the postal department. The report submitted by the Postal Authority shows that the items stands dispatched. However, none has put in appearance today on behalf of petitioner.

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The same is thus dismissed as having not been pressed. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File, after completion be consigned to records.

Announced:
03-05-2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

03-05-2019.

Present: None for petitioner.

Sh. Manoj Chauhan, Ld. Csl. for respondent No. 1.

Sh. Naresh Sharma, Ld. Csl. for respondent No. 2&3.

None has appeared for petitioner even today. Notice had been issued to the petitioner on 01.03.2019 returnable for 11.04.2019. Even on that date none had appeared for the petitioner. Notices were again ordered to be issued through registered post. A tracking report was also sought from the postal department. The report submitted by the Postal Authority shows that the items stands dispatched. However, none has put in appearance today on behalf of petitioner.

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The same is thus dismissed as having not been pressed. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File, after completion be consigned to records.

Announced:
03-05-2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

03-05-2019.

Present: None for petitioner.

Sh. Manoj Chauhan, Ld. Csl. for respondent No.1.

Sh. Naresh Sharma, Ld. Csl. for respondent No. 2&3.

None has appeared for petitioner even today. Notice had been issued to the petitioner on 01.03.2019 returnable for 11.04.2019. Even on that date none had appeared for the petitioner. Notices were again ordered to be issued through registered post. A tracking report was also sought from the postal department. The report submitted by the Postal Authority shows that the items stands dispatched. However, none has put in appearance today on behalf of petitioner.

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The same is thus dismissed as having not been pressed. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File, after completion be consigned to records.

Announced:
03-05-2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

03-05-2019.

Present: None for petitioner.

Sh. Manoj Chauhan, Ld. Csl. for respondent No.1.

Sh. Naresh Sharma, Ld. Csl. for respondent No. 2&3.

None has appeared for petitioner even today. Notice had been issued to the petitioner on 01.03.2019 returnable for 11.04.2019. Even on that date none had appeared for the petitioner. Notices were again ordered to be issued through registered post. A tracking report was also sought from the postal department. The report submitted by the Postal Authority shows that the items stands dispatched. However, none has put in appearance today on behalf of petitioner.

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The matter has been called thrice but, none has put in appearance on behalf of the petitioner. It is thus apparent that the petitioner does not intend to prosecute the lis. In his absence it is difficult for this Court to proceed any further as even no claim has been filed. Except the reference there is nothing on record.

The same is thus dismissed as having not been pressed. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File, after completion be consigned to records.

Announced:
03.05.2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

Miss Sarita

V/s

Secy. Sarvodya Bal Ashram, Shimla

03-05-2019.

Present: Sh. Umesh Sanoria, Advocate for petitioner.

None for respondent.

The petitioner by way of the present reference had challenged her termination *w.e.f.* 03.07.2014, which was stated to be in violation of the provisions of the Industrial Dispute Act, 1947.

The parties had exchanged pleadings, however, no evidence has been led on behalf of the petitioner. After 27.11.2018 despite repeated opportunities no steps were taken to lead evidence by the petitioner. On 04.04.2019, the learned counsel for the petitioner had expressed his inability to proceed any further as the petitioner was not forthcoming to prosecute the lis. Today, the learned counsel for the petitioner has filed a copy of a letter dated 26.04.2019 along with the postal receipt requesting the petitioner to lead evidence today, it being the last opportunity granted by the court. Unfortunately, the petitioner still has not come forward to depose before this court. The learned counsel for the petitioner also pleads no instructions.

Apart from the reference, the petitioner indeed has filed a statement of claim challenging her termination which is stated to be violative of the provisions of Section 25-N of the Act. While the respondents, per contra have averred that the petitioner had been appointed on contract baiss by the respondents in the "Chief Minister Bal-Udhar Yojna", upto the completion of the scheme/yojna at a monthly honorarium of Rs. 3500/-. The petitioner left the job of her own will without informing the replying respondent on 03.07.2014 and thereafter never reported for duty.

No evidence having been led by the petitioner to prove her case and to rebut the case set-up by the petitioner, no conclusive finding can be arrived at. Moreover, it seems that the petitioner is not even interested to prosecute the lis any further.

In the aforesaid circumstances without going into the merits of the contentions so raised by the parties, the reference is dismissed as not pressed. Ordered accordingly.

Let, a copy of this order be sent to appropriate government for publication in the office gazette. Be consigned to records after completion.

Announced :
03-05-2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**IN THE COURT OF SHRI CHIRAG BHANU SINGH, PRESIDING JUDGE, H.P.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

App. No. 86 of 2017

Instituted on 8-8-2017

Decided on 29-5-2019

Pappu s/o Shri Dev Raj r/o Village Charida, P.O Bharina kothi, District Chamba, HP.
. Petitioner.

Versus

The Mondetez India Foods Ltd. (Formerly Cadbury India Ltd.), Hadbast No. 199, Village Sandholi, P.O & Tehsil Baddi, District Solan, through its Managing Director *. Respondent.*

Application under section 2-A read-with section 11 of the Industrial Disputes Act, 1947

For petitioner : None

For respondent : Shri Rajeev Sharma, Advocate

ORDER

The petitioner had filed an application under section 2-A read-with Section 11 of the Industrial Disputes Act, 1947 (hereinafter to be referred as the Act) seeking reinstatement of service with full back wages, seniority and continuity in service along-with all consequential benefits thereof.

2. Per the petitioner, he had already moved a demand notice against the respondent on 29.9.2016. The company had dispensed with the services of the petitioner orally without following the proper procedure laid by law more particularly in the Act. No notice was issued to him as provided under section 25-F nor any retrenchment compensation was paid. The respondents are stated to have also violated the provisions of Sections 25-G and 25-H of the Act, as persons junior to the petitioner had been retained.

3. As per the petitioner the work was still available with the respondent and since the termination was violative of the provisions of Sections 25-F, 25-G and 25-H of the Act, the oral

REASONS FOR FINDINGS

Issues No. 1 to 3 :

10. All these issues are being taken up together as they are correlated and intermingled.

11. The petitioner for the reasons best known to him has led no evidence. Almost five opportunities were granted to the petitioner to lead evidence, but, to no avail.

12. The petitioner though has sought to invoke the protection of Sections 25-F, 25-G and 25-H of the Act but strangely even the date of termination and engagement has not been reflected in the statement of claim. It cannot be inferred from the pleadings as to when the petitioner was engaged and when his services came to be terminated. Since, the petitioner has not even entered in the witness box, the said defect continues to glare at the Court.

13. The contentions raised by the petitioner in the statement of claim have also not even been substantiated and proved on record by leading any sort of evidence either oral or documentary. Nothing has been placed on record to remotely suggest that as to when the services of the petitioner came to be dispensed with. Whether he had completed 240 days or not. The violations of the Act have also not been pleaded or proved. Despite five opportunities no steps were taken by the petitioner to prove the factum of illegal termination.

14. On the contrary the respondents have examined one Shri Rajiv Kumar, HR Manager as RW-1 to contend that the petitioner has been appointed on fixed term basis and his employment was contractual in nature and the certified standing orders duly certified by the State Government enabled them to employ the workers on contract basis, though, their working hours, wages, allowances and other benefits have to be at par with the permanent workmen.

15. Since, the petitioner has failed to lead any evidence to substantiate his claim and the un-rebutted evidence of the respondent apparently shows that the petitioner had been engaged on contractual basis there is no other option before this Court but to hold that the termination of the petitioner cannot be faulted with, based on the material placed before this Court. It is thus held that the petitioner has failed to prove that his termination was violative of the provisions of Sections 25-F, 25-G and 25-H of the Act and the petitioner had not been engaged on contract basis by the respondent. The issues thus are decided accordingly.

Issue No. 4 :

16. Nothing is brought to my notice as to how this petition is not maintainable. The petitioner had raised a dispute before the Labour-cum-Conciliation Officer, Baddi on 29.9.2016 and the Labour Officer had received the same on 20.9.2016 and after conducting some proceedings closed it on 23.12.2016 as is clear from the documents annexed by the petitioner alongwith statement of claim. It is thus clear that since the matter has not been resolved within 45 days the petitioner could have availed the remedy under section 2-A of the Act. The issue is thus decided against the respondent.

Relief:

For the foregoing reasons discussed hereinabove *supra*, the application preferred by the petitioner under section 2-A of the Act is dismissed. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today this 29th day of May, 2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**IN THE COURT OF SHRI CHIRAG BHANU SINGH, PRESIDING JUDGE, H.P.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

App. No. 91 of 2017

Instituted on 8-8-2017

Decided on 29-5-2019

Mukesh Kumar s/o Shri Pyar Singh r/o Village Sai, P.O Chakloo, Tehsil and District
Chamba, H.P. . *Petitioner.*

Versus

The Mondetez India Foods Ltd. (Formerly Cadbury India Ltd.), Hadbast No. 199, Village
Sandholi, P.O & Tehsil Baddi, District Solan, through its Managing Director. . *Respondent.*

Application under section 2-A read-with Section 11 of the Industrial Disputes Act, 1947

For petitioner : None

For respondent : Shri Rajeev Sharma, Advocate

ORDER

The petitioner had filed an application under section 2-A read-with Section 11 of the Industrial Disputes Act, 1947 (hereinafter to be referred as the Act) seeking reinstatement of service with full back wages, seniority and continuity in service alongwith all consequential benefits thereof.

2. Per the petitioner, he had already moved a demand notice against the respondent on 31.3.2017. The company had dispensed with the services of the petitioner orally without following the proper procedure laid by law more particularly in the Act. No notice was issued to him as provided under section 25-F nor any retrenchment compensation was paid. The respondents are stated to have also violated the provisions of sections 25-G and 25-H of the Act, as persons junior to the petitioner had been retained.

3. As per the petitioner the work was still available with the respondent and since the termination was violative of the provisions of Sections 25-F, 25-G and 25-H of the Act, the oral termination of the petitioner be set aside and he be ordered to be reinstated with full back-wages, seniority and continuity of service. The respondent be directed to regularize the services of the petitioner on the basis of policy framed by the State Government.

4. While contesting the application the respondent has inter-alia raised preliminary objections *vis-à-vis* maintainability and material concealment of facts. It is also the case of the respondent that the petitioner had been engaged on fixed term employment, as per the certified standing orders. The petitioner had been apprized of the same that his appointment was purely on fixed term basis and the same was to come to an end on the expiry of the fixed term. The petitioner had been appointed on contractual basis.

5. On merits, the contention of the respondent remains the same. It is further averred by the respondent that being a fixed term service the question of completion of 240 days in a calendar year does not arise. The service of the petitioner was purely contractual in nature and as such the provisions of Sections 25-G & 25-H are not attracted in the present case. The question of retaining the juniors cannot be raised as they are trainees appointed by the respondent.

6. The services of the petitioner came to an end on the expiry of his fixed term and as such the question of oral termination does not arise.

7. While filing rejoinder, the petitioner controverted the averments in the reply and further reiterated those in the statement of claim.

8. I notice that on 15.6.2018, the following issues came to be framed by my Learned Predecessor:

1. Whether the termination of the services of the petitioner without complying with the provisions of Industrial Disputes Act, 1947 is illegal and unjustified? . . .*OPP*.
2. If issue No. 1 is proved in affirmative, to what relief of service benefits the petitioner is entitled? . . .*OPP*.
3. Whether the petitioner was engaged by the respondent on fixed term employment basis, as alleged? . . .*OPR*.
4. Whether the petition is not maintainable as alleged? . . .*OPR*.

Relief

9. Having considered the pleadings, evidence and other attendant material placed on record, my findings on the issues framed are thus:—

<i>Issue No. 1</i>	No
<i>Issue No. 2</i>	Becomes redundant
<i>Issue No. 3</i>	Yes
<i>Issue No. 4</i>	No
<i>Relief:</i>	Reference answered in favour of the respondent and against the petitioner per operative part of award.

REASONS FOR FINDINGS

Issues No. 1 to 3 :

10. All these issues are being taken up together as they are correlated and intermingled.

11. The petitioner for the reasons best known to him has led no evidence. Almost five opportunities were granted to the petitioner to lead evidence, but, to no avail.

12. The petitioner though has sought to invoke the protection of sections 25-F, 25-G and 25-H of the Act but strangely even the date of termination and engagement has not been reflected in the statement of claim. It cannot be inferred from the pleadings as to when the petitioner was engaged and when his services came to be terminated. Since, the petitioner has not even entered in the witness box, the said defect continues to glare at the Court.

13. The contentions raised by the petitioner in the statement of claim have also not even been substantiated and proved on record by leading any sort of evidence either oral or documentary. Nothing has been placed on record to remotely suggest that as to when the services of the petitioner came to be dispensed with. Whether he had completed 240 days or not. The violations of the Act have also not been pleaded or proved. Despite five opportunities no steps were taken by the petitioner to prove the factum of illegal termination.

14. On the contrary the respondents have examined one Shri Rajiv Kumar, HR Manager as RW-1 to contend that the petitioner has been appointed on fixed term basis and his employment was contractual in nature and the certified standing orders duly certified by the State Government enabled them to employ the workers on contract basis, though, their working hours, wages, allowances and other benefits have to be at par with the permanent workmen.

15. Since, the petitioner has failed to lead any evidence to substantiate his claim and the un-rebutted evidence of the respondent apparently shows that the petitioner had been engaged on contractual basis there is no other option before this Court but to hold that the termination of the petitioner cannot be faulted with, based on the material placed before this Court. It is thus held that the petitioner has failed to prove that his termination was violative of the provisions of Sections 25-F, 25-G and 25-H of the Act and the petitioner had not been engaged on contract basis by the respondent. The issues thus are decided accordingly.

Issue No. 4 :

16. Nothing is brought to my notice as to how this petition is not maintainable. The petitioner had raised a dispute before the Labour-cum-conciliation Officer, Baddi on 31.3.2017 and the Labour Officer had received the same on 31.3.2017 and after conducting some proceedings closed it on 14.6.2017 as is clear from the documents annexed by the petitioner alongwith statement of claim. It is thus clear that since the matter has not been resolved within 45 days the petitioner could have availed the remedy under section 2-A of the Act. The issue is thus decided against the respondent.

Relief :

For the foregoing reasons discussed hereinabove *supra*, the application preferred by the petitioner under section 2-A of the Act is dismissed. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today this 29th day of May, 2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**IN THE COURT OF SHRI CHIRAG BHANU SINGH, PRESIDING JUDGE, H.P.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

App. No. 84 of 2017

Instituted on 8-8-2017

Decided on 29-5-2019

Vinod Kumar S/o Shri Sita Ram r/o Village Swana, P.O Nakrana, Tehsil Sri Naina Devi Ji,
District Bilaspur, HP. . .Petitioner.

Versus

The Mondetez India Foods Ltd. (Formerly Cadbury India Ltd.), Hadbast No. 199, Village
Sandholi, P.O & Tehsil Baddi, District Solan, through its Managing Director . .Respondent.

Application under section 2-A read-with Section 11 of the Industrial Disputes Act, 1947

For petitioner : None

For respondent : Shri Rajeev Sharma, Advocate

ORDER

The petitioner had filed an application under section 2-A read-with Section 11 of the Industrial Disputes Act, 1947 (hereinafter to be referred as the Act) seeking reinstatement of service with full back wages, seniority and continuity in service along-with all consequential benefits thereof.

2. Per the petitioner, he had already moved a demand notice against the respondent on 30.3.2017. The company had dispensed with the services of the petitioner orally without following the proper procedure laid by law more particularly in the Act. No notice was issued to him as provided under section 25-F nor any retrenchment compensation was paid. The respondents are stated to have also violated the provisions of Sections 25-G and 25-H of the Act, as persons junior to the petitioner had been retained.

3. As per the petitioner the work was still available with the respondent and since the termination was violative of the provisions of Sections 25-F, 25-G and 25-H of the Act, the oral termination of the petitioner be set aside and he be ordered to be reinstated with full back-wages, seniority and continuity of service. The respondent be directed to regularize the services of the petitioner on the basis of policy framed by the State Government.

4. While contesting the application the respondent has *inter-alia* raised preliminary objections *vis-à-vis* maintainability and material concealment of facts. It is also the case of the respondent that the petitioner had been engaged on fixed term employment, as per the certified standing orders. The petitioner had been apprized of the same that his appointment was purely on fixed term basis and the same was to come to an end on the expiry of the fixed term. The petitioner had been appointed on contractual basis.

5. On merits, the contention of the respondent remains the same. It is further averred by the respondent that being a fixed term service the question of completion of 240 days in a calendar

year does not arise. The service of the petitioner was purely contractual in nature and as such the provisions of Sections 25-G & 25-H are not attracted in the present case. The question of retaining the juniors cannot be raised as they are trainees appointed by the respondent.

6. The services of the petitioner came to an end on the expiry of his fixed term and as such the question of oral termination does not arise.

7. While filing rejoinder, the petitioner controverted the averments in the reply and further reiterated those in the statement of claim.

8. I notice that on 15.6.2018, the following issues came to be framed by my Learned Predecessor:

1. Whether the termination of the services of the petitioner without complying with the provisions of Industrial Disputes Act, 1947 is illegal and unjustified? . . .*OPP.*
2. If issue No. 1 is proved in affirmative, to what relief of service benefits the petitioner is entitled? . . .*OPP.*
3. Whether the petitioner was engaged by the respondent on fixed term employment basis, as alleged? . . .*OPR.*
4. Whether the petition is not maintainable as alleged? . . .*OPR.*

Relief

9. Having considered the pleadings, evidence and other attendant material placed on record, my findings on the issues framed are thus:—

<i>Issue No. 1</i>	No
<i>Issue No. 2</i>	Becomes redundant
<i>Issue No. 3</i>	Yes
<i>Issue No. 4</i>	No
<i>Relief:</i>	Reference answered in favour of the respondent and against the petitioner per operative part of award.

REASONS FOR FINDINGS

Issues No. 1 to 3 :

10. All these issues are being taken up together as they are correlated and intermingled.

11. The petitioner for the reasons best known to him has led no evidence. Almost five opportunities were granted to the petitioner to lead evidence, but, to no avail.

12. The petitioner though has sought to invoke the protection of sections 25-F, 25-G and 25-H of the Act but strangely even the date of termination and engagement has not been

reflected in the statement of claim. It cannot be inferred from the pleadings as to when the petitioner was engaged and when his services came to be terminated. Since, the petitioner has not even entered in the witness box, the said defect continues to glare at the Court.

13. The contentions raised by the petitioner in the statement of claim have also not even been substantiated and proved on record by leading any sort of evidence either oral or documentary. Nothing has been placed on record to remotely suggest that as to when the services of the petitioner came to be dispensed with. Whether he had completed 240 days or not. The violations of the Act have also not been pleaded or proved. Despite five opportunities no steps were taken by the petitioner to prove the factum of illegal termination.

14. On the contrary the respondents have examined one Shri Rajiv Kumar, HR Manager as RW-1 to contend that the petitioner has been appointed on fixed term basis and his employment was contractual in nature and the certified standing orders duly certified by the State Government enabled them to employ the workers on contract basis, though, their working hours, wages, allowances and other benefits have to be at par with the permanent workmen.

15. Since, the petitioner has failed to lead any evidence to substantiate his claim and the un-rebutted evidence of the respondent apparently shows that the petitioner had been engaged on contractual basis there is no other option before this Court but to hold that the termination of the petitioner cannot be faulted with, based on the material placed before this Court. It is thus held that the petitioner has failed to prove that his termination was violative of the provisions of Sections 25-F, 25-G and 25-H of the Act and the petitioner had not been engaged on contract basis by the respondent. The issues thus are decided accordingly.

Issue No. 4 :

16. Nothing is brought to my notice as to how this petition is not maintainable. The petitioner had raised a dispute before the Labour-cum-conciliation Officer, Baddi on 30.3.2017 and the Labour Officer had received the same on 30.3.2017 and after conducting some proceedings closed it on 14.6.2017 as is clear from the documents annexed by the petitioner alongwith statement of claim. It is thus clear that since the matter has not been resolved within 45 days the petitioner could have availed the remedy under section 2-A of the Act. The issue is thus decided against the respondent.

Relief. :

For the foregoing reasons discussed hereinabove *supra*, the application preferred by the petitioner under section 2-A of the Act is dismissed. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today this 29th day of May, 2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**IN THE COURT OF SHRI CHIRAG BHANU SINGH, PRESIDING JUDGE, H.P.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

App. No. 90 of 2017

Instituted on 8-8-2017

Decided on 29-5-2019

Ravi Kumar s/o Shri Desh Raj r/o Village Kuhka, P.O Baily, Tehsil Dalhousie, District Chamba, HP. . *Petitioner.*

Versus

The Mondetez India Foods Ltd. (Formerly Cadbury India Ltd.), Hadbast No. 199, Village Sandholi, P.O & Tehsil Baddi, District Solan, through its Managing Director. . *Respondent.*

Application under section 2-A read-with Section 11 of the Industrial Disputes Act, 1947

For petitioner : None

For respondent : Shri Rajeev Sharma, Advocate

ORDER

The petitioner had filed an application under section 2-A read-with Section 11 of the Industrial Disputes Act, 1947 (hereinafter to be referred as the Act) seeking reinstatement of service with full back wages, seniority and continuity in service alongwith all consequential benefits thereof.

2. Per the petitioner, he had already moved a demand notice against the respondent on 29.9.2016. The company had dispensed with the services of the petitioner orally without following the proper procedure laid by law more particularly in the Act. No notice was issued to him as provided under section 25-F nor any retrenchment compensation was paid. The respondents are stated to have also violated the provisions of Sections 25-G and 25-H of the Act, as persons junior to the petitioner had been retained.

3. As per the petitioner the work was still available with the respondent and since the termination was violative of the provisions of Sections 25-F, 25-G and 25-H of the Act, the oral termination of the petitioner be set aside and he be ordered to be reinstated with full back-wages, seniority and continuity of service. The respondent be directed to regularize the services of the petitioner on the basis of policy framed by the State Government.

4. While contesting the application the respondent has *inter-alia* raised preliminary objections *vis-à-vis* maintainability and material concealment of facts. It is also the case of the respondent that the petitioner had been engaged on fixed term employment, as per the certified standing orders. The petitioner had been apprized of the same that his appointment was purely on fixed term basis and the same was to come to an end on the expiry of the fixed term. The petitioner had been appointed on contractual basis.

5. On merits, the contention of the respondent remains the same. It is further averred by the respondent that being a fixed term service the question of completion of 240 days in a calendar

year does not arise. The service of the petitioner was purely contractual in nature and as such the provisions of Sections 25-G & 25-H are not attracted in the present case. The question of retaining the juniors cannot be raised as they are trainees appointed by the respondent.

6. The services of the petitioner came to an end on the expiry of his fixed term and as such the question of oral termination does not arise.

7. While filing rejoinder, the petitioner controverted the averments in the reply and further reiterated those in the statement of claim.

8. I notice that on 15.6.2018, the following issues came to be framed by my Learned Predecessor:

1. Whether the termination of the services of the petitioner without complying with the provisions of Industrial Disputes Act, 1947 is illegal and unjustified? . . .*OPP.*
2. If issue No. 1 is proved in affirmative, to what relief of service benefits the petitioner is entitled? . . .*OPP.*
3. Whether the petitioner was engaged by the respondent on fixed term employment basis, as alleged? . . .*OPR.*
4. Whether the petition is not maintainable as alleged? . . .*OPR.*

Relief

9. Having considered the pleadings, evidence and other attendant material placed on record, my findings on the issues framed are thus:—

Issue No. 1	No
Issue No. 2	Becomes redundant
Issue No. 3	Yes
Issue No. 4	No
Relief:	Reference answered in favour of the respondent and against the petitioner per operative part of award.

REASONS FOR FINDINGS

Issues No. 1 to 3 :

10. All these issues are being taken up together as they are correlated and intermingled.

11. The petitioner for the reasons best known to him has led no evidence. Almost five opportunities were granted to the petitioner to lead evidence, but, to no avail.

12. The petitioner though has sought to invoke the protection of sections 25-F, 25-G and 25-H of the Act but strangely even the date of termination and engagement has not been

reflected in the statement of claim. It cannot be inferred from the pleadings as to when the petitioner was engaged and when his services came to be terminated. Since, the petitioner has not even entered in the witness box, the said defect continues to glare at the Court.

13. The contentions raised by the petitioner in the statement of claim have also not even been substantiated and proved on record by leading any sort of evidence either oral or documentary. Nothing has been placed on record to remotely suggest that as to when the services of the petitioner came to be dispensed with. Whether he had completed 240 days or not. The violations of the Act have also not been pleaded or proved. Despite five opportunities no steps were taken by the petitioner to prove the factum of illegal termination.

14. On the contrary the respondents have examined one Shri Rajiv Kumar, HR Manager as RW-1 to contend that the petitioner has been appointed on fixed term basis and his employment was contractual in nature and the certified standing orders duly certified by the State Government enabled them to employ the workers on contract basis, though, their working hours, wages, allowances and other benefits have to be at par with the permanent workmen.

15. Since, the petitioner has failed to lead any evidence to substantiate his claim and the un-rebutted evidence of the respondent apparently shows that the petitioner had been engaged on contractual basis there is no other option before this Court but to hold that the termination of the petitioner cannot be faulted with, based on the material placed before this Court. It is thus held that the petitioner has failed to prove that his termination was violative of the provisions of sections 25-F, 25-G and 25-H of the Act and the petitioner had not been engaged on contract basis by the respondent. The issues thus are decided accordingly.

Issue No . 4 :

16. Nothing is brought to my notice as to how this petition is not maintainable. The petitioner had raised a dispute before the Labour-cum-conciliation Officer, Baddi on 29.3.2016 and the Labour Officer had received the same on 20.10.2016 and after conducting some proceedings closed it on 12.1.2017 as is clear from the documents annexed by the petitioner alongwith statement of claim. It is thus clear that since the matter has not been resolved within 45 days the petitioner could have availed the remedy under section 2-A of the Act. The issue is thus decided against the respondent.

Relief :

For the foregoing reasons discussed hereinabove *supra*, the application preferred by the petitioner under section 2-A of the Act is dismissed. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today this 29th day of May, 2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**IN THE COURT OF SHRI CHIRAG BHANU SINGH, PRESIDING JUDGE, H.P.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Ref. No. 20 of 2016

Instituted on 21-3-2016

Decided on 8-5-2019

Yash Pal Worker through General Secretary, Bhartiya Mazdoor Sangh, District Shimla,
HP Head Office Om Bhawan, Near Himland Hotel, Shimla-1 . *Petitioner.*

HP State Civil Supplies Corporation Ltd. SDA Complex, Kasumpti Shimla-9 through its
Managing Director . *Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri J.C. Bhardwaj, AR

For respondent : Ex-parte

AWARD

The following reference was received for adjudication from the appropriate government:

“Whether the demand raised by the General Secretary, Bhartiya Mazdoor Sangh, District Shimla, Head Office Om Bhawan, Near Himland Hotel Shimla-1, H.P. vide demand notice dated 21.1.2014 (copy enclosed) to re-designate Shri Yash Pal, worker as Clerk w.e.f. Year 2003 on the basis of work being performed by him as per orders from time to time, before and to be full-filled by the Managing Director, HP State Civil Supplies Corporation Ltd. SDA Complex, Kasumpti Shimla-9 HP is legal and justified? If yes, what relief of service benefits including seniority, arrear of wages and other monetary, consequential service benefits Shri Yashpal worker is entitled to from the above employer/management?”

2. As per the statement of claim the petitioner came to be appointed in the Corporation in November, 1997 as a cleaner. However, keeping in view his academic qualification as well as his working experience the petitioner was assigned/deployed as clerk in the year 2003 and was posted at the Medical Store owned by the Corporation at IGMCH, Shimla and DDU Hospital and area office of the Corporation at Bhatta Kuffer. Since then he has been performing the duties of a clerk as assigned to him by the respondent. He has even worked as a junior/senior assistant at Medical Stores, LPG Chopal and at the regional office Bhatta Kuffer respectively. However, he was paid the salary of a class-IV employee which was contrary to the principles of “equal pay for equal work”. The petitioner made many representations but to no avail.

3. The petitioner thereupon raised his demand through the General Secretary of the Bhartiya Mazdoor Sangh which eventually raised a demand under section 2-K of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act). The petitioner is duly qualified and fulfils the requisite qualification/experience criterion for the post of clerk. At present he has been posted as incharge of PDS Depot at Tabo, District Lahul and Spiti.

4. Further per the petitioner the Corporation has formed its recruitment and promotion rules wherein the post of a Public Distribution Clerk has been equated with the post of a clerk and at present 62 posts of clerk are lying vacant with the respondent corporation. As per the R&P Rules the post of clerk is required to be fulfilled 10% by promotion and 80% by the direct recruitment or on contract basis. The promotions are to be made from amongst matriculates, Public Distribution Helpers, cleaners, peon and Chowkidars having at least five years of service. Though, the petitioner has been working as a clerk but the respondents have still continued to designate him as a cleaner and paying him the salary of a cleaner which amounts to unfair labour practice and is also violative of Article 14 & 16 of the Constitution of India. The Corporation has also infringed the fundamental right of the petitioner by not following the principles of "equal pay for equal work". The petitioner is therefore entitled to be designated as a clerk as he has been working as such since the year 2003.

5. It is thus prayed that the respondent corporation may be directed to designate the petitioner as a clerk/assistant in consonance with the nature of work performed by him by awarding promotion, pay scales, allowances to the petitioner retrospectively *i.e.* from the year 2003.

6. While controverting the claim so made the respondents have raised preliminary objections *vis-à-vis* maintainability, cause of action, non-joinder of necessary parties and the petitioner having a specific alternative remedy available to him. Per the respondents the petitioner also does not fall within the definition of a "workman", as the petitioner is a regular employee and is governed by the special service law of the corporation which is a body corporate.

7. On merits, it is the contention of the respondent that the petitioner was engaged as a cleaner on regular basis by the respondent on 23.10.1997. His initial academic qualification was 10+2 and he was deputed as a cleaner on vehicle No. HP 07-3276. Thereupon he was deputed on other vehicles as a cleaner.

8. It is specifically denied by the respondent that he was assigned the duties of a clerk in the year 2003 either at the medical stores or the area office of the Corporation. It is also denied that the petitioner had been performing the duties of a clerk and that too assigned by the Corporation itself. As per the respondents the petitioner has been paid his due salary for the work.

9. Further per the respondents in the year 2005-07 the vehicles of the Corporation were transferred to Dharamshala due to which the cleaners were rendered surplus and their services were utilized as class-IV in the jurisdiction of Shimla area under the control of a Senior Assistant. The petitioner was never posted as a clerk/junior/senior assistant. It is denied that the petitioner was deployed in IGMC or other offices to do clerical work. As per the respondent one Shri Yogender Tanwar, Senior Assistant was deployed in IGMC who was thereupon replaced by one Shri Krishan Singh. The petitioner had worked as a helper only in terms of specific orders issued in this regard. In Tabo too he was posted as such and for this he was paid extra remuneration of Rs. 300/- per month. B.A has been prescribed as a minimum qualification for the post of a clerk. The promotion if any are to be made on the basis of seniority amongst the eligible candidates and there are about eight persons senior to the petitioner.

10. While filing rejoinder, the petitioner controverted the averments in the reply and further reiterated those in the statement of claim.

11. I notice that on 10.7.2017, the following issues came to be framed by my Learned Predecessor:

1. Whether the demands raised by the General Secretary, Bhartiya Mazdoor Sangh *vide* demand notice dated 21.1.2014 to re-designate Shri Yashpal worker as clerk *w.e.f.* the year 2003 on the basis of work being performed by him as per orders from time to time before and to be fulfilled by the respondent is legal and justified as alleged? . . .*OPP.*
2. If issue No. 1 is proved in affirmative, to what relief of service benefits the petitioner Shri Yashpal Singh is entitled? . . .*OPP.*
3. Whether the petition is not maintainable as alleged? . . .*OPR.*
4. Whether the petitioner does not fall within the definition of workman as alleged? . . .*OPR.*
5. Whether the petition is bad for non-joinder of necessary parties as alleged? . . .*OPR.*

Relief

12. Having considered the pleadings, evidence and other attendant material placed on record, my findings on the issues framed are thus:—

<i>Issue No. 1</i>	Partly yes
<i>Issue No. 2</i>	Per operative part of award/order
<i>Issue No. 3</i>	No
<i>Issue No. 4</i>	No
<i>Issue No. 5</i>	No
<i>Relief:</i>	Reference partly answered in favour of the petitioner and against the respondent per operative part of award.

REASONS FOR FINDINGS

Issues No. 1 & 2 :

13. Both these issues are being taken up together as they are correlated and intermingled.

14. The respondents came to proceeded *ex-parte vide* an order dated 15.5.2018.

15. The respondents though have filed the reply to the statement of claim filed by the petitioner, however, after 15.5.2018 the respondents chose not to contest the proceedings before this Court. They were set *ex-parte* on 15.5.2018.

16. The petitioner to substantiate his claim that he was working as a clerk after the year 2002 examined himself as PW-2. Per his deposition he was appointed as a cleaner on 29.3.1997. He continued working as such till the year 2002 and thereafter he has been performing clerical work regularly till date. He has placed on record certain supply orders Ex. PW-1/A-1 to Ex. PW-1/A-10. He had sought the scale of a clerk *vide* representation dated 10.3.2006 Mark P-4.

Per him he was deployed at the fixed price shop at Kungri, District Lahul & Spiti *vide* letter dated 24.5.2004 mark P-5 for 8 days. He has further deposed that he was deputed to the office of joint Chief Controller of Explosive, Faridabad *vide* letter dated 26.8.2006 Ex. PW-1/B for preparing licences of the Gas Gowdons. He was deputed for administrative work *vide* duty list dated 25.8.2006 Mark P-8 and deployed in the H.P. State Civil Supplies Corporation area office Shimla. He was further posted and deployed at Gas Gowdon Chopal *vide* letter dated 24.12.2008 Mark P-9 where he worked for 11 months. Further per the petitioner he also prepared indents/supply orders received from Medicine Shop Anni *vide* Ex. PW-1/D-1 to Ex. PW-1/D-3.

17. Per the petitioner he also performed the work of a senior assistant *vide* order dated 26.7.2011 Mark P-11 at Bhata Kuffar area office. He was transferred to Tabo on 16.5.2013 *vide* Mark P-12 and assigned the duties of a clerk and he has been working as such till date. The petitioner has placed on record the R&P Rules of Public Distribution Clerk stipulating that the qualification for promotion of a clerk is matriculate *vide* Ex. PW-1/E and there are 62 posts of clerk are lying vacant with the respondent *vide* Ex. RW-1/F.

18. He has also examined one Shri Joginder as PW-1. He has deposed that he knew the petitioner who is working as a clerk and he was transferred to Tabo on 16.5.2013.

19. The documentary evidence on record shows that admittedly the petitioner was engaged as a helper. The perusal of Mark P-5 a letter dated 24.5.2004 does show that the petitioner was deputed for 8 days to Kungri. It was apparently a stop gap arrangement. Actually he was sent to Kungri and the orders itself clearly specified that his status was that of cleaner. Likewise the perusal of Mark P-8 shows that he was attached with Mr. Krishan Chand. Senior Assistant *vide* duty list dated 25.8.2008. The perusal of Mark P-8, however, intriguingly shows that the other cleaners and peons had been detailed as workers and peons while the petitioner was posted to assist Krishan Chand. Rather one Hem Prakash, Data Operator was directed to assist the petitioner for processing medicine bills received from various medicine shops. Thereupon *vide* letter mark P-9, *i.e.* an order dated 24.12.2008 the petitioner Yashpal was directed to hand-over the charge to one Shri Dushyant Kumar. Eventually in the year 2003, the petitioner was thereupon ordered to be transferred to Tabo on 16.5.2013 *vide* Mark P-12. As per the said order one Joginder Singh, clerk was directed to hand-over the complete charge (stock, cash, record etc.) and since then he is working at Tabo itself.

20. The perusal of the R&P Rules for the post of Public Distribution Clerk shows that the method of recruitment is 10% by promotion and 90% by direct recruitment on regular basis or on contract basis and the feeder category for 10% promotion is from amongst matriculate Public Distribution Clerks/cleaners, Peon-cum-Chowkidars with at least five years service, as is clear from Ex. PW-1/E on record. As per the information supplied by the respondents themselves *vide* Ex. PW-1/F, 62 posts are lying vacant in the Civil Supplies Corporation.

21. The un-rebutted evidence on record goes to show that the petitioner at least has been working permanently against the post of Public Distribution Clerk since 16.5.2013 (Mark P-12). Prior to that the petitioner has been working against the post of a clerk but apparently it was a stop gap arrangement made by the respondent corporation from time to time.

22. It is however explicitly clear from the documents placed on record that after 16.5.2013 the petitioner has been working against the post of Public Distribution Clerk and that too in the Tribal area. The orders itself is clear as the petitioner has been posted against one Shri Joginder Singh, Clerk and the petitioner has been directed to take-over complete charge (stock, cash, records etc.) and since then he is working as such. It is thus clear that the petitioner is performing the work of a Public Distribution Clerk since long. He is admittedly undertaking the

same work which a permanent Public Distribution Clerk would have done. Since, the petitioner was undertaking the work of a Public Distribution Clerk, admittedly, based on the principles of “equal pay for equal work” at least what the respondent corporation could have done is that they should have paid him the wages of Public Distribution Clerk till the time he was working as such. Non-payment of the wages of a Public Distribution Clerk while extracting the work of said nature admittedly will entail resorting to unfair labour practice under the provisions of Schedule 5 of the Industrial Disputes Act, 1947.

23. There is no gainsaying that if two class of persons do the same work under the same employer, with similar responsibilities, under similar working conditions the domain of “Equal pay for equal work” would apply with all vigour. A temporary or casual employee performing the same duties and function would thus also be entitled to the same pay as is paid to a permanent employee.

24. The Hon’ble Supreme Court had on occasion to decide whether the principles of “equal pay for equal work” would also extend to temporary employees (daily-wage employees, *ad-hoc* appointees, employees appointed on casual basis, contractual employees and the like) in **State of Punjab & Ors. Vs. Jagjit Singh & Ors., (2017) 1 SCC 148**, wherein it has been categorically held that the parameters of these principles shall be applicable to even temporary employees. The petitioner though stands on a better footing as he was a regular helper with the respondent corporation. The Hon’ble Supreme Court in the aforesaid case has categorically held that an employee engaged for the same work, cannot be paid less than other, who performs the same duties and responsibilities. Certainly not, in a welfare state. Such an action besides being demeaning, strikes at the very foundation of human dignity, who is compelled to work at a lesser wage, does not do so voluntarily.

25. It is thus clear from the discussion held hereinabove that the petitioner at least has been working as a Public Distribution Clerk since 16.5.2013. Though, as per the R&P Rules, the petitioner falls in the feeder category for promotion to the Public Distribution Clerk but seeing to the quota which is merely 10%, it is not clear as to what is his seniority position of the petitioner for being considered for promotion to the next higher grade, though, he undoubtedly fulfills the criteria as per R&P Rules (Ex. PW-1/E). The petitioner having worked as Public Distribution Clerk from the year 2013, he is indeed entitled to the pay and wages of a Public Distribution Clerk at least from 16.5.2013 as per the transfer orders, Mark P-12 issued by the respondents themselves.

26. As a sequel the respondent shall pay to the petitioner the minimum of the pay scale applicable to a Public Distribution Clerk *w.e.f.* 16.5.2013 till date. The difference between his pay and the minimum of the pay scale of Public Distribution Clerk shall be paid within six weeks from this order failing which it shall carry interest @ 6% per annum. The respondent corporation shall consider the case of the petitioner for promotion as per the R&P Rules and his seniority. Accordingly both these issues are partly decided in favour of the petitioner and against the respondent.

Issues No. 3 & 4:

27. Both these issues are being taken up together as they are correlated and intermingled.

28. Nothing has been brought to my notice as to how the petition is not maintainable. As per the respondent the petitioner was a regular employee and was governed by the specific service law of the Corporation which is a body corporate, but, nothing has been

placed on record nor anything proved to show as to what were the specific service law of the Corporation and to how the petitioner does not fall within the definition of “workman” under section 2(s) of the Act. Moreover, nothing has been brought to my notice as to what is specific alternative remedy to the petitioner as has been averred by the respondent in the reply. Accordingly both these issues are decided in favour of the petitioner and against the respondent.

Issues No. 3 & 4 :

29. There is nothing on record to remotely suggest as to how the petition is bad for non-joinder of necessary parties. There is not a whisper in the reply as to who was the necessary party to the lis, over and apart the respondent Corporation. In view of the aforesaid, the issue is decided against the respondent.

Relief :

For the foregoing reasons discussed hereinabove *supra*, the respondent Corporation is directed to pay to the petitioner the minimum of the pay scale applicable to a Public Distribution Clerk *w.e.f.* 16.5.2013 till date. The difference between his pay and the minimum of the pay scale of Public Distribution Clerk shall be paid within six weeks from this order failing which it shall carry interest @ 6% per annum. The respondent corporation shall consider the case of the petitioner for promotion as per the R&P Rules and his seniority. The reference is thus partly answered in favour of the petitioner in the aforesaid terms. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today this 8th day of May, 2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

ब अदालत श्री लक्ष्मण सिंह, नायब तहसीलदार व समाहर्ता द्वितीय श्रेणी, उप-तहसील पुखरी,
जिला चम्बा, हिमाचल प्रदेश

श्री निहालू राम पुत्र श्री भागी, गांव रेटा, डाकघर झुलाडा, उप-तहसील पुखरी, जिला चम्बा, हिमाचल प्रदेश, 667 / 2019 . . वादी।

बनाम

आम जनता एवं ग्राम पंचायत राजनगर, विकास खण्ड चम्बा

प्रतिवादी।

विषय.—जन्म-तिथि प्रविष्ट करने बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) महोदया चम्बा के कार्यालय पृष्ठांकन संख्या 4369, दिनांक 09-10-2019 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2019-13233, दिनांक 09-10-2019, (2)

शपथ पत्र, (3) अपर्याप्ता प्रमाण-पत्र, (4) शिक्षा प्रमाण-पत्र, (5) आधार कार्ड, (6) जन्म रिपोर्ट जिसमें आवेदक श्री निहालू राम पुत्र श्री भागी, गांव निवासी रेटा, डाकघर व पंचायत झुलाडा, उप-तहसील पुखरी, जिला चम्बा, हिमाचल प्रदेश की पुत्री बनिता की जन्म तिथि किन्हीं कारणों से पंचायत अभिलेख में दर्ज करने से रह गई है। परिणामतः पंचायत जन्म पंजीकरण रजिस्टर में बनिता का नाम एवं जन्म-तिथि दर्ज न हुआ है जो नियमानुसार अनिवार्य है। इस विषय की पुष्टि अपर्याप्ता प्रमाण-पत्र व जारी जन्म रिपोर्ट जो जिला पंजीकरण जन्म एवं मृत्यु अधिकारी चम्बा ने अपने प्रमाण-पत्र जो दिनांक 09-10-2019 को जारी हुआ है उसमें की है।

अतः सर्वसाधारण को इस नोटिस के माध्यम से सूचित किया जाता है कि बनिता पुत्री श्री निहालू राम निवासी गांव रेटा, डाकघर झुलाडा, परगना खडोट, उप-तहसील पुखरी, जिला चम्बा की जन्म तिथि 28-05-2014 (अठाइस मई दो हजार चौदह) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969 की धारा 13(3) के प्रावधानों के अन्तर्गत पंचायत के सम्बन्धित अभिलेख अथवा जिला पंजीकरण (जन्म एवं मृत्यु) द्वारा अभिलेख में दर्ज करने के आदेश पारित किये जाने हैं। अगर किसी को किसी प्रकार की कोई आपत्ति हो तो वह इस अदालत में नोटिस (इश्तहार) के एक माह के भीतर सुबह 10.00 से सायं 5.00 बजे तक अपनी आपत्ति दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में बनिता की जन्म तिथि सम्बन्धित अभिलेख में दर्ज करने के आदेश पारित कर दिये जाएंगे।

आज दिनांक 21-10-2019 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी,
उप-तहसील पुखरी, जिला चम्बा, हि0 प्र0।

**ब अदालत नायब तहसीलदार व कार्यकारी दण्डाधिकारी, उप-तहसील पुखरी,
जिला चम्बा, हिमाचल प्रदेश**

मिसल नं0 : 18 ना0 तह0 रीडर, पुखरी/2019/665

तारीख दायरा : 21-09-2019

चमन सिंह पुत्र श्री आलम राम, गांव सुखरेठा, डाकघर झुलाडा, परगना खडोट, उप-तहसील पुखरी, जिला चम्बा, हिमाचल प्रदेश वादी।

बनाम

आम जनता

प्रतिवादी।

विषय.—जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969 की धारा 13(3) के तहत जन्म पंजीकरण हेतु प्रार्थना-पत्र।

चमन सिंह पुत्र श्री आलम राम, गांव सुखरेठा, डाकघर झुलाडा, परगना खडोट, उप-तहसील पुखरी, जिला चम्बा ने इस अदालत में एक आवेदन-पत्र व ब्यान हल्फी पेश किया है कि उसके बेटे नामक हंस राज का जन्म दिनांक 10-02-2006 को गांव सुखरेठा, पंचायत झुलाडा में हुआ है, परन्तु किसी कारणवश उसके बेटे के जन्म पंजीकरण का ईन्द्राज ग्राम पंचायत झुलाडा में नहीं करवाया गया है। प्रार्थी इस न्यायालय के माध्यम से अपने बेटे के जन्म का पंजीकरण करने के आदेश ग्राम पंचायत झुलाडा को जारी करवाना चाहता है।

अतः प्रार्थी का ब्यान हल्फी स्वीकार करते हुए इस इश्तहार/मुश्त्री मुनादी व चस्पांगी द्वारा आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति को प्रार्थी के बेटे का जन्म पंचायत में पंजीकरण करने हेतु किसी प्रकार का कोई उजर एवं एतराज हो तो वह असालतन या वकालतन में इस इश्तहार के प्रकाशन की तिथि उपरान्त एक माह के भीतर सुबह 10.00 बजे से लेकर शाम 5.00 बजे तक अदालत में हाजिर होकर

अपना उजर एवं एतराज पेश कर सकते हैं। बाद तारीख किसी किस्म का उजर एवं एतराज नहीं सुना जाएगा व उक्त प्रार्थी के बेटे के जन्म पंजीकरण करने के आदेश सचिव ग्राम पंचायत झुलाडा को पारित कर दिये जायेंगे।

यह इशतहार हमारे हस्ताक्षर व मोहर अदालत से आज दिनांक 18-10-2019 को जारी हुआ।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी,
उप-तहसील पुखरी, जिला चम्बा (हि0 प्र0)।

**ब अदालत श्री लक्ष्मण सिंह, नायब तहसीलदार व समाहर्ता द्वितीय श्रेणी, उप-तहसील पुखरी,
जिला चम्बा, हिमाचल प्रदेश**

श्री सुनील कुमार पुत्र श्री सुभाष चन्द, गांव छन्नी, डाकघर पुखरी, उप-तहसील पुखरी, जिला चम्बा, हिमाचल प्रदेश, 668/2019 . . वादी।

बनाम

आम जनता एवं ग्राम पंचायत पुखरी, विकास खण्ड चम्बा

प्रतिवादी।

विषय.—जन्म-तिथि प्रविष्ट करने बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) महोदया चम्बा के कार्यालय पृष्ठांकन संख्या 3645, दिनांक 03-08-2019 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2014-9918, दिनांक 01-08-2019 (2) शपथ पत्र, (3) शिक्षा प्रमाण-पत्र, (4) आधार कार्ड, (5) जन्म रिपोर्ट जिसमें आवेदक श्री सुनील कुमार पुत्र श्री सुभाष चन्द, गांव छन्नी, डाकघर पुखरी, उप-तहसील पुखरी, जिला चम्बा, हिमाचल प्रदेश की जन्म-तिथि किन्हीं कारणों से पंचायत अभिलेख में दर्ज करने से रह गई है। परिणामतयः पंचायत जन्म पंजीकरण रजिस्टर में सुनील कुमार का नाम एवं जन्म तिथि दर्ज न हुआ है जो नियमानुसार अनिवार्य है। इस विषय की पुष्टि शिक्षा प्रमाण-पत्र व जारी जन्म रिपोर्ट जो जिला पंजीकरण जन्म एवं मृत्यु अधिकारी चम्बा ने अपने प्रमाण-पत्र जो दिनांक 01-08-2019 को जारी हुआ है उसमें की है।

अतः सर्वसाधारण को इस नोटिस के माध्यम से सूचित किया जाता है कि सुनील कुमार पुत्र श्री सुभाष चन्द, निवासी गांव छन्नी, डाकघर पुखरी, परगना त्रियोदी, उप-तहसील पुखरी, जिला चम्बा की जन्म तिथि 24-02-1990 (चौबीस फरवरी उन्नीस सौ नब्बे) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969 की धारा 13 (3) के प्रावधानों के अन्तर्गत पंचायत के सम्बन्धित अभिलेख अथवा जिला पंजीकरण (जन्म एवं मृत्यु) द्वारा अभिलेख में दर्ज करने के आदेश पारित किये जाने हैं। अगर किसी को किसी प्रकार की कोई आपत्ति हो तो वह इस अदालत में नोटिस (इशतहार) के एक माह के भीतर सुबह 10.00 से सायं 5.00 बजे तक अपनी आपत्ति दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में सुनील कुमार की जन्म तिथि सम्बन्धित अभिलेख में दर्ज करने के आदेश पारित कर दिये जाएंगे।

आज दिनांक 21-10-2019 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी,
उप-तहसील पुखरी, जिला चम्बा, हि0 प्र0।

**ब अदालत नायब तहसीलदार व कार्यकारी दण्डाधिकारी, उप-तहसील पुखरी,
जिला चम्बा, हिमाचल प्रदेश**

मिसल नं० : 17 ना० तह० रीडर, पुखरी/2019/664

तारीख दायरा : 21-09-2019

ललता देवी पुत्री श्री चमन लाल, गांव डमूंई, डाकघर सन्धी, परगना धुन्धी, उप-तहसील पुखरी, जिला चम्बा, हिमाचल प्रदेश वादी।

बनाम

आम जनता

प्रतिवादी।

विषय.—जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969 की धारा 13(3) के तहत जन्म पंजीकरण हेतु प्रार्थना-पत्र।

ललता देवी पुत्री श्री चमन लाल, गांव डमूंई, डाकघर सन्धी, परगना धुन्धी, उप-तहसील पुखरी, जिला चम्बा ने इस अदालत में एक ब्यान हल्फी पेश किया है कि मेरा जन्म दिनांक 18-09-2000 को गांव डमूंई, पंचायत दुलाहर में हुआ है, परन्तु किसी कारणवश मेरे जन्म के पंजीकरण का ईन्द्राज ग्राम पंचायत दुलाहर में नहीं करवाया गया है। प्रार्थिया इस न्यायालय के माध्यम से अपने जन्म का पंजीकरण करने के आदेश ग्राम पंचायत दुलाहर को जारी करवाना चाहती है।

अतः प्रार्थी का ब्यान हल्फी स्वीकार करते हुए इस इश्तहार/मुश्त्री मुनादी व चस्पांगी द्वारा आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति को प्रार्थिया का जन्म पंचायत में पंजीकरण करने हेतु किसी प्रकार का कोई उजर एवं एतराज हो तो वह असालतन या वकालतन इस इश्तहार के प्रकाशन की तिथि उपरान्त एक माह के भीतर सुबह 10.00 बजे से लेकर सायं 5.00 बजे तक अदालत में हाजिर होकर अपना उजर एवं एतराज पेश कर सकते हैं। बाद तारीख किसी किस्म का उजर एवं एतराज नहीं सुना जाएगा व उक्त प्रार्थिया के जन्म पंजीकरण करने के आदेश सचिव ग्राम पंचायत दुलाहर को पारित कर दिये जायेंगे।

यह इश्तहार हमारे हस्ताक्षर व मोहर अदालत से आज दिनांक 18-10-2019 को जारी हुआ।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी,
उप-तहसील पुखरी, जिला चम्बा (हि० प्र०)।

**In the Court of Shri Shivam Pratap Singh IAS, Marriage Officer-cum-Sub-Divisional
Magistrate Chamba, District Chamba (H. P.)**

Bablu s/o Sh. Ami Chand, r/o Village Bainska, P.O. Khajjiar, Tehsil & District Chamba, H. P., aged 22 years (Husband).

and

Rekha d/o Shri Amro, r/o Village Baadi, P.O. Khajjiar, Tehsil & Distt. Chamba, H.P. aged 23 years (Wife).

Versus

1. The General Public
2. The Registrar of Marriage Himachal Pradesh, Shimla

Subject.—Registration of Marriage under Section 15 of Special Marriage Act, 1954.

Whereas, the above named applicants have made an application before the undersigned under section 15 of Special Marriage Act, 1954 (Central Act) as ammended by the Marriage Laws (Ammended Act 01,49 of 2001) alongwith affidavits and other relevant documents stating therein that they have solemnized their marriage on 09-08-2014 at their place of residence and they are living together as husband and wife since then. Hence their marriage may be registered under Special Marriage Act, 1954.

Now, therefore, the general public is hereby informed through this notice that any person who has any objection regarding the registration of this marriage can file the objection personally or in writing before this court on or before 25-11-2019 after that no objections will be entertained and marriage will be registered accordingly.

Issued under my hand and seal of the Court on this 22nd October, 2019.

Seal.

SHIVAM PRATAP SINGH IAS,
Sub-Divisional Magistrate,
Chamba, District Chamba (H.P.).

ब अदालत जनाब कार्यकारी दण्डाधिकारी रक्कड़, तहसील रक्कड़, जिला कांगड़ा (हि0 प्र0)

केस नं0	किस्म मुकद्दमा	तारीख दायरा	तारीख पेशी
19 / NT / 2019	नाम दुरुस्ती	04-09-2019	25-11-2019

दर्शन कुमार	बनाम	आम जनता
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प्रार्थना-पत्र नाम दुरुस्ती

प्रार्थी श्री दर्शन कुमार पुत्र भूरु राम, निवासी भ्रान्ता वुहला, डाकघर रक्कड़, मौजा कलोहा, तहसील रक्कड़, जिला कांगड़ा (हि0प्र0)।

प्रार्थना-पत्र नाम दुरुस्ती प्रार्थी श्री दर्शन कुमार पुत्र भूरु राम, निवासी भ्रान्ता वुहला, डाकघर रक्कड़, मौजा कलोहा, तहसील रक्कड़, जिला कांगड़ा (हि0प्र0) ने इस अदालत में प्रार्थना-पत्र दायर किया है कि उसका नाम राजस्व अभिलेख महाल भ्रान्ता वुहला में दर्शन सिंह दर्ज है जबकि उसका सही नाम दर्शन कुमार पुत्र भूरु राम है, लिहाजा इसे दुरुस्त करके दर्शन कुमार पुत्र भूरु राम किया जाए। प्रार्थना-पत्र के समर्थन में शपथ-पत्र प्रार्थी आधार कार्ड, परिवार रजिस्टर नकल, स्कूल प्रमाण-पत्र, ब्यानात प्रार्थी साथ संलग्न है।

अतः इस नोटिस के माध्यम से आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि अगर किसी को उपरोक्त नाम दुरुस्ती बारे कोई उजर व एतराज हो तो दिनांक पेशी 25-11-2019 को सुबह 10.00 बजे इस न्यायालय में असालतन या वकालतन अपना एतराज अधोहस्ताक्षरी के न्यायालय में उपस्थित होकर पेश कर सकता है अन्यथा उपरोक्त नाम दुरुस्त करने के आदेश दे दिए जाएंगे। उसके उपरान्त कोई एतराज न सुना जाएगा।

आज दिनांक 22-10-2019 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित / -
कार्यकारी दण्डाधिकारी,
रक्कड़, तहसील रक्कड़,
जिला कांगड़ा (हि0प्र0)।

**ब अदालत सुनील कुमार, तहसीलदार एवम् सहायक समाहर्ता प्रथम श्रेणी, थुरल,
जिला कांगड़ा (हि0 प्र0)**

किस्म मुकद्दमा: दुरुस्ती नाम

तारीख पेशी : 04-12-2019

श्री उधो पुत्र मुंडू, निवासी महाल समन, मौजा वन्दाहु, तहसील थुरल, जिला कांगड़ा (हि0 प्र0) प्रार्थी।

बनाम

आम जनता

प्रतिवादी।

विषय.—प्रार्थना—पत्र दुरुस्ती नाम राजस्व अभिलेख महाल फगुंडता, मौजा वन्दाहु, तहसील थुरल, जिला कांगड़ा (हि0 प्र0)।

प्रार्थी श्री उधो पुत्र मुंडू, निवासी महाल समन, मौजा वन्दाहु, तहसील थुरल, जिला कांगड़ा (हि0 प्र0) ने एक प्रार्थना—पत्र मय शपथ—पत्र पीठासीन अधिकारी के समक्ष प्रस्तुत करते हुए अनुरोध किया है कि उसके पिता का नाम आधार कार्ड, पंचायत अभिलेख व अन्य दस्तावेजों में मुंडू दर्ज है व उसके पिता का विख्यात व सही नाम भी मुंडू ही है, परन्तु राजस्व अभिलेख महाल लाहड डुहक, मौजा आलमपुर, तहसील थुरल में उसका नाम आशो देवी गलत दर्ज हो गया था। अतः प्रार्थी अब अपनी माता का नाम राजस्व अभिलेख महाल लाहड डुहक, मौजा आलमपुर, तहसील थुरल में दुरुस्ती करवा करके श्रीमती आशो देवी के बजाए आशो देवी उपनाम व्यासां देवी पत्नी ज्ञानु दर्ज करवाना चाहता है अतः प्रार्थी का आवेदन स्वीकार करते हुए इस इशतहार राजपत्र के माध्यम से आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त प्रार्थी की माता के नाम की राजस्व अभिलेख महाल लाहड डुहक, मौजा आलमपुर, तहसील थुरल में आशो देवी की बजाए आशो देवी उपनाम व्यासां देवी पत्नी ज्ञानु दर्ज करवाने बारे किसी किस्म की आपत्ति या उजर हो तो वह तारीख पेशी 07-01-2019 को असालतन या वकालतन हाजिर अदालत होकर अपना उजर पेश कर सकता है अन्यथा बाद तारीख पेशी किसी किस्म का उजर एवं एतराज नहीं सुना जावेगा व नाम दुरुस्ती का आदेश पारित कर दिया जाएगा।

यह इशतहार आज दिनांक 02-11-2018 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—

नायब तहसीलदार एवम् सहायक समाहर्ता द्वितीय श्रेणी,
तहसील थुरल, जिला कांगड़ा (हि0 प्र0)।

**ब अदालत कार्यकारी दण्डाधिकारी प्रथम श्रेणी एवं तहसीलदार, भुन्तर,
जिला कुल्लू, हि0 प्र0**

केस नं0 : 36-MT/19

दायर तिथि : 10-10-2019

1. श्री नितिन सूद पुत्र श्री विजय सूद, निवासी गांव व डाकघर शमशी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0।

2. श्रीमती रीता देवी पुत्री श्री लाल चन्द, गांव गोम्पा रोड़ मनाली, डाकघर व तहसील मनाली, जिला कुल्लू, हि0 प्र0।

बनाम

सर्वसाधारण एवं आम जनता

विषय.— प्रार्थना-पत्र जेर धारा 5(4) हि0 प्र0 रजिस्ट्रीकरण नियम, 2004 विवाह पंजीकरण बारे।

उपरोक्त मामला में प्रार्थीगण ने दिनांक 10-10-2019 को इस अदालत में प्रार्थना-पत्र मय शपथ पेश किये हैं कि उन्होंने दिनांक 30-04-2018 को शादी कर ली है और तब से दोनों पति-पत्नी के रूप में रहते चले आ रहे हैं परन्तु प्रार्थीगण ने अपनी शादी का इन्द्राज सम्बन्धित नगर पंचायत भुन्तर, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 में दर्ज नहीं करवाया है।

अतः सर्वसाधारण व आम जनता को इस इशतहार द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त प्रार्थीगण की शादी से सम्बन्धित पंचायत के अभिलेख में दर्ज करने बारे एतराज हो तो वह दिनांक 16-11-2019 को सुबह 10.00 बजे या इससे पूर्व असालतन या वकालतन हाजिर अदालत आकर अपना एतराज दर्ज करवा सकता है। इसके उपरान्त कोई भी एतराज समायत न होगा तथा नियमानुसार शादी दर्ज करने के आदेश सम्बन्धित नगर पंचायत को पारित कर दिए जाएंगे।

आज दिनांक 14-10-2019 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी प्रथम श्रेणी एवं तहसीलदार,
भुन्तर, जिला कुल्लू, हि0 प्र0।

ब अदालत कार्यकारी दण्डाधिकारी प्रथम श्रेणी एवं तहसीलदार, भुन्तर,
जिला कुल्लू, हि0 प्र0

केस नं0 : 44/BT 2019

दायर तिथि : 06-06-2019

श्री कालटु राम पुत्र श्री स्वारू राम, साकन गांव पिछलीसेरी, डाकघर मौहल, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0।

बनाम

सर्वसाधारण एवं आम जनता

विषय.—प्रार्थना-पत्र अधीन धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री कालटु राम पुत्र श्री स्वारू राम, साकन गांव पिछलीसेरी, डाकघर मौहल, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 ने इस कार्यालय में प्रार्थना-पत्र मय शपथ-पत्र दिया गया है कि उसकी पुत्री विद्या देवी का जन्म दिनांक 23-03-2016 को स्थान गांव पिछलीसेरी, डाकघर मौहल, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 में हुई है परन्तु उसकी जन्म तिथि का इन्द्राज किसी कारणवश ग्राम पंचायत शिलीराजगिरी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 के अभिलेख में दर्ज न किया गया है।

अतः इस इशतहार हजा द्वारा सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को विद्या देवी पुत्री श्री कालटु राम की जन्म तिथि दर्ज करवाने बारे कोई आपत्ति हो तो वह दिनांक 16-11-2019 को सुबह 10.00 बजे या इससे पूर्व असालतन या वकालतन हाजिर अदालत आकर अपना एतराज दर्ज करवा सकता है। इसके उपरान्त कोई भी एतराज समायत न होगा तथा नियमानुसार जन्म तिथि दर्ज करवाने के आदेश सम्बन्धित ग्राम पंचायत को पारित कर दिए जाएंगे।

आज दिनांक 15-10-2019 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी प्रथम श्रेणी एवं तहसीलदार,
भुन्तर, जिला कुल्लू, हि0 प्र0।

ब अदालत कार्यकारी दण्डाधिकारी प्रथम श्रेणी एवं तहसीलदार, भुन्तर,
जिला कुल्लू, हि0 प्र0

केस नं0 : 43/BT 2019

दायर तिथि : 16-05-2019

श्री दोत राम पुत्र श्री ख्याल चन्द साकन, गांव ज्येष्ठा, डाकघर ठेला, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0।

बनाम

सर्वसाधारण एवं आम जनता

विषय.—प्रार्थना-पत्र अधीन धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री दोत राम पुत्र श्री ख्याल चन्द, साकन गांव ज्येष्ठा, डाकघर ठेला, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 ने इस कार्यालय में प्रार्थना-पत्र मय शपथ-पत्र दिया गया है कि उसकी पुत्री पुष्पा देवी का जन्म दिनांक 08-07-2014 को स्थान गांव ज्येष्ठा, डाकघर ठेला, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 में हुआ है परन्तु उसकी जन्म तिथि का इन्द्राज किसी कारणवश ग्राम पंचायत ज्येष्ठा, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 के अभिलेख में दर्ज न किया है।

अतः इस इशतहार हजा द्वारा सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को पुष्पा देवी पुत्री श्री दोत राम की जन्म तिथि दर्ज करवाने बारे कोई आपत्ति हो तो वह दिनांक 16-11-2019 को सुबह 10.00 बजे या इससे पूर्व असातन या वकालतन हाजिर अदालत आकर अपना एतराज दर्ज करवा सकता है। इसके उपरान्त कोई भी एतराज समाप्त न होगा तथा नियमानुसार जन्म तिथि दर्ज करवाने के आदेश सम्बन्धित ग्राम पंचायत को पारित कर दिए जाएंगे।

आज दिनांक 15-10-2019 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी प्रथम श्रेणी एवं तहसीलदार,
भुन्तर, जिला कुल्लू, हि0 प्र0।

ब अदालत सहायक समाहर्ता प्रथम श्रेणी, बन्जार, जिला कुल्लू (हि0 प्र0)

किस्म मुकद्दमा.—राजस्व रिकार्ड में नाम दुरुस्त करने बारे।

श्री डोला सिंह पुत्र श्री प्रेम दास, निवासी गांव सुलाहणू, डा0 जीभी, तहसील बन्जार, जिला कुल्लू, हि0 प्र0 ने बमय शपथ-पत्र इस कार्यालय/न्यायालय में प्रार्थना-पत्र इस आशय से गुजारा है कि प्रार्थी का

नाम राजस्व रिकार्ड में डोला राम लिखा गया है, जोकि गलत है। जबकि प्रार्थी का नाम डोला सिंह है जोकि सही है। इसे दुरुस्त करवाना चाहता है।

इस सम्बन्ध में इशतहार द्वारा सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को प्रार्थी का नाम राजस्व रिकार्ड में डोला राम की जगह डोला सिंह दर्ज करने बारे कोई आपत्ति हो तो वह दिनांक 30-11-2019 तक असालतन व वकालतन अदालत हजा में आकर अपनी आपत्ति दर्ज करें, तारीख गुजरने के बाद किसी भी प्रकार का एतराज मान्य न होगा तथा एकतरफा कार्यवाही अमल में लाई जाकर नाम दुरुस्ती के आदेश पारित किए जाएंगे।

आज दिनांक 23-10-2019 को मेरे हस्ताक्षर व कार्यालय मोहर अदालत द्वारा जारी किया गया।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता प्रथम श्रेणी,
बन्जार, जिला कुल्लू (हि0 प्र0)।

ब अदालत सहायक समाहर्ता प्रथम श्रेणी, बन्जार, जिला कुल्लू (हि0 प्र0)

किस्म मुकद्दमा.—राजस्व रिकार्ड में नाम दुरुस्त करने बारे।

श्री प्रदीप कुमार पुत्र श्री भीम सिंह, निवासी गांव शनाड, डा0 अनाह, तहसील बन्जार, जिला कुल्लू, हि0 प्र0 ने बमय शपथ—पत्र इस कार्यालय/न्यायालय में प्रार्थना—पत्र इस आशय से गुजारा है कि प्रार्थी का नाम राजस्व रिकार्ड में मुरारी लाल लिखा गया है, जोकि गलत है। जबकि प्रार्थी का नाम प्रदीप कुमार है जोकि सही है। इसे दुरुस्त करवाना चाहता है।

इस सम्बन्ध में इशतहार द्वारा सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को प्रार्थी का नाम राजस्व रिकार्ड में मुरारी लाल की जगह प्रदीप कुमार दर्ज करने बारे कोई आपत्ति हो तो वह दिनांक 30-11-2019 तक असालतन व वकालतन अदालत हजा में आकर अपनी आपत्ति दर्ज करें, तारीख गुजरने के बाद किसी भी प्रकार का एतराज मान्य न होगा तथा एकतरफा कार्यवाही अमल में लाई जाकर नाम दुरुस्ती के आदेश पारित किए जाएंगे।

आज दिनांक 23-10-2019 को मेरे हस्ताक्षर व कार्यालय मोहर अदालत द्वारा जारी किया गया।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता प्रथम श्रेणी,
बन्जार, जिला कुल्लू (हि0 प्र0)।

ब अदालत सहायक समाहर्ता प्रथम श्रेणी, बन्जार, जिला कुल्लू (हि0 प्र0)

किस्म मुकद्दमा.—राजस्व रिकार्ड में जाति दुरुस्ती करने बारे।

श्री सुरेन्द्र कुमार पुत्र श्री दौलत राम पुत्र रोडा राम, निवासी गांव घियागी, डा0 जिभी, फाटी घियागी, तहसील बन्जार, जिला कुल्लू, हि0 प्र0 ने बमय शपथ—पत्र इस कार्यालय/न्यायालय में प्रार्थना—पत्र इस आशय से गुजारा है कि प्रार्थी की जाति राजस्व अभिलेख में अन्य जाति दर्ज की गई है, जोकि गलत है। जबकि प्रार्थी की जाति कुम्हार है, जोकि सही है। इसे राजस्व अभिलेख में दुरुस्ती करवाना चाहता है।

इस सम्बन्ध में इशतहार द्वारा सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को प्रार्थी की जाति राजपूत के स्थान पर कुम्हार राजस्व अभिलेख में दर्ज करने बारे कोई आपत्ति हो तो वह दिनांक 30-11-2019 तक असालतन व वकालतन अपनी अपत्ति पेश करें। तारीख गुजरने के बाद किसी भी प्रकार का एतराज मान्य न होगा तथा एकतरफा कार्यवाही अमल में लाई जाकर जाति दुरुस्ती के आदेश पारित किए जाएंगे।

आज दिनांक 23-10-2019 को मेरे हस्ताक्षर व कार्यालय मोहर अदालत द्वारा जारी किया गया।

मोहर।

हस्ताक्षरित /—
सहायक समाहर्ता प्रथम श्रेणी,
बन्जार, जिला कुल्लू (हि0 प्र0)।

In the Court of Sh. Raman Gharsangi (HAS), Special Marriage Officer-cum-Sub-Divisional Magistrate, Manali, District Kullu (H.P.)

In the matter of :

Sanju s/o Shri Rattan Singh, r/o Ward No. 7, Gompa Road Manali, Tehsil Manali, District Kullu (H.P.) and

Smt. Tashi Palmo d/o Sh. Tookyal A/P wife of Sh. Sanju, r/o Ward No. 7, Gompa Road Manali, Tehsil Manali, District Kullu (H.P.).

Versus

General Public

An application for the registration of marriage under Special Marriage Act, 1954.

Sanju s/o Shri Rattan Singh, r/o Ward No. 7, Gompa Road Manali, Tehsil Manali, District Kullu (H.P.) and Smt. Tashi Palmo d/o Sh. Tookyal A/P wife of Sh. Sanju, r/o Ward No. 7, Gompa Road Manali, Tehsil Manali, District Kullu (H.P.) has presented an application on 01-10-2019 in this court for the registration of marriage under Special Marriage Act, 1954. Hence this proclamation is hereby issued for the information of General Public that if any person has any objection for the registration of the above marriage can appear in this court on 21-11-2019 at Manali to object registration of above marriage personally or through an authorized agent failing which this marriage will be registered under this Act, 1954 accordingly.

Given under my hand and seal of the court on 10 day of October, 2019.

Seal.

Sd/-
*Special Marriage Officer-cum-
Sub-Divisional Magistrate,
Manali, District Kullu, H.P.*

In the Court of Sh. Raman Gharsangi (HPS), Special Marriage Officer-cum-Sub-Divisional Magistrate, Manali, District Kullu (H.P.)

In the matter of :

Narender Kumar aged 27 years s/o Shri Puran Chand, r/o Luna Pani, P.O. Bhangrotu, Tehsil Sadar, District Mandi (H.P.) at present Cafe Dejavu near Bridge Old Manali, P.O. Old Manali, Tehsil Manali, District Kullu (H.P.) and

Anzela Rutkovska aged 35 years d/o Sh. Tadeus Kopic, Nationality Lithuania, bearing Passport No. 23659960, resident of Virkiu Rieves 14-4, Vilnius, Lithuania at present Cafe Dejavu near Bridge Old Manali, P.O. Old Manali, Tehsil Manali, District Killu (H.P.).

Versus

General Public

An application for the registration of marriage under Special Marriage Act, 1954.

Narender Kumar aged 27 years s/o Shri Puran Chand, r/o Luna Pani, P.O. Bhangrotu, Tehsil Sadar, District Mandi (H.P.), at present Cafe Dejavu near Bridge Old Manali, Tehsil Manali, District Kullu (H.P.) and Anzela Rutkovska aged 35 years d/o Sh. Tadeus Kopic, Nationality Lithuania, bearing Passport No. 23659960, resident of Virkiu Rieves 14-4, Vilnius, Lithuania at present Cafe Dejavu near Bridge Old Manali, P.O. Old Manali, Tehsil Manali, District Killu (H.P.) has presented an application on 23-10-2019 in this court for the registration of marriage under Special Marriage Act, 1954. Hence this proclamation is hereby issued for the information of General Public that if any person has any objection for the registration of the above marriage can appear in this court on 23-11-2019 at 2.00 P.M. to object registration of above marriage personally or through an authorized agent failing which this marriage will be registered under this Act, 1954 accordingly.

Given under my hand and seal of the court on 25th day of October, 2019.

Seal.

Sd/-

*Special Marriage Officer-cum-
Sub-Divisional Magistrate,
Manali, District Kullu, H.P.*

**In the Court of Sub-Divisional Magistrate-cum-Marriage Officer Manali,
District Kullu (H.P.)**

In the matter of :

Neeraj Kumar age 32 years s/o Shri Amod Parasad Singh, r/o Rajwa, Biraul, Darbhanga Bihar at present residing at SASE V.P.O. Bahang, Tehsil Manali, District Kullu (H.P.) and

Neha Thakur age 30 years d/o Sh. Swaran Singh, r/o Ward No. 5, Gamru Kotwali Bazar Dharamshala, District kangra H.P. at present residing at SASE V.P.O. Bahang, Tehsil Manali, District Kullu (H.P.).

Versus

General Public

An application for the registration of marriage under Special Marriage Act, 1954.

Neeraj Kumar age 32 years s/o Shri Amod Parasad Singh, r/o Rajwa, Biraul, Darbhanga Bihar at present residing at SASE V.P.O. Bahang, Tehsil Manali, District Kullu (H.P.) and Neha Thakur age 30 years d/o Sh. Swaran Singh, r/o Ward No. 5, Gamru Kotwali Bazar Dharamshala, District Kangra, H.P. at present residing at SASE V.P.O. Bahang, Tehsil Manali, District Kullu (H.P.) has presented an application on 17-10-2019 in this court for the registration of marriage under Special Marriage Act, 1954. Hence this proclamation is hereby issued for the information of General Public that if any person has any objection for the registration of the above marriage can appear in this court on 17-11-2019 at to object registration of above marriage personally or through an authorized agent failing which this marriage will be registered under this Act, 1954 accordingly.

Given under my hand and seal of the court on 23rd day of October, 2019.

Seal.

Sd/-
Special Marriage Officer-cum-
Sub-Divisional Magistrate,
Manali, District Kullu, H.P.

ब अदालत श्री एम० आर० कश्यप, सहायक समाहर्ता द्वितीय श्रेणी, उप-मण्डल डोडरा क्वार,
जिला शिमला (हि० प्र०)

श्री दिला राम पुत्र स्व० श्री नईदर सिंह, निवासी गांव धन्द्रवाडी, तहसील डोडरा क्वार, जिला शिमला,
हिमाचल प्रदेश।

बनाम

आम जनता

दरखास्त बराए मृत्यु की दुरुस्ती पंचायत रिकार्ड में किए जाने बारे।

श्री दिला राम पुत्र स्व० श्री नईदर सिंह, निवासी गांव धन्द्रवाडी, तहसील डोडरा क्वार, जिला शिमला, हिमाचल प्रदेश ने अधोहस्ताक्षरी के न्यायालय में एक दरखास्त पेश की है जिसमें आग्रह किया है कि उनकी माता जी की मृत्यु की तारीख उनके द्वारा गलती से 23-12-2018 दर्ज करवाई गई है, जोकि गलत है जबकि मृत्यु की तारीख 03-01-2019 है जोकि सही है। अतः दुरुस्ती आदेश जारी किये जाएं।

अतः आम जनता को इस इश्तहार द्वारा सूचित किया जाता है कि यदि किसी भी व्यक्ति को इस बारा कोई आपत्ति/एतराज हो तो वह तारीख पेशी 19-11-2019 को प्रातः 10 बजे या इससे पूर्व असातन व वकालतन हाजिर होकर पेश कर सकता है। यदि निश्चित तारीख पेशी को किसी भी व्यक्ति से कोई एतराज इस न्यायालय में प्राप्त नहीं होता है तो मृत्यु की दुरुस्ती हेतु ग्राम पंचायत धन्द्रवाडी, तहसील डोडरा क्वार को एकतरफा आदेश पारित कर दिए जायेंगे।

आज दिनांक 19-10-2019 को मेरे हस्ताक्षर मोहर सहित अदालत द्वारा जारी किया गया।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी,
डोडरा क्वार, जिला शिमला (हि० प्र०)।

ब अदालत श्री प्यारे लाल, सहायक समाहर्ता द्वितीय श्रेणी, सराहन, उप-तहसील सराहन,
जिला शिमला, हिमाचल प्रदेश

मुकद्दमा नं० : 73/2019

तारीख दायर : 06-09-2019

श्रीमती विनता कुमारी पुत्री स्व० श्री शिव राम, निवासी गांव कलै, डाकघर बौण्डा, उप-तहसील सराहन, जिला शिमला, हि० प्र० वादी।

बनाम

आम जनता

प्रतिवादी।

विषय.—राजस्व कागजात माल में नाम दुरुस्त करने बारे प्रार्थना-पत्र।

श्रीमती विनता कुमारी पुत्री स्व० श्री शिव राम, निवासी गांव कलै, डाकघर बौण्डा, उप-तहसील सराहन, जिला शिमला, हि० प्र० ने इस कार्यालय में अपना आवेदन-पत्र मय ब्यान हल्फी दिया है कि प्रार्थिया का नाम आधार कार्ड, परिवार रजिस्टर नकल, राशन कार्ड, शिक्षा प्रमाण-पत्र में विनता कुमारी दर्ज है जो सही व दुरुस्त है परन्तु पटवार वृत्त सराहन के महाल कलै के राजस्व अभिलेख में प्रार्थिया का नाम कुमारी रीना देवी दर्ज हुआ है जो कि गलत है तथा आवेदन किया है कि प्रार्थिया का नाम पटवार वृत्त सराहन के महाल कलै के राजस्व अभिलेख में कुमारी रीना देवी उर्फ विनता कुमारी नाम दर्ज करने के आदेश पारित किये जायें।

अतः इस इशतहार द्वारा आम जनता को सूचित किया जाता है कि कुमारी रीना देवी उर्फ विनता कुमारी का नाम पटवार वृत्त सराहन के महाल कलै के राजस्व अभिलेख में दुरुस्त किया जाना है इस बारे आम जनता को कोई आपत्ति हो तो वह इस इशतहार के प्रकाशन की तिथि उपरान्त एक माह के भीतर इस सम्बन्ध में अपना उजर/एतराज पेश कर सकते हैं। इसके पश्चात् कोई भी उजर/एतराज मान्य नहीं होगा तथा उपरोक्त कुमारी रीना देवी उर्फ विनता कुमारी का नाम दुरुस्त करने के आदेश पारित कर दिये जाएंगे।

यह इशतहार हमारे हस्ताक्षर व मोहर अदालत से आज दिनांक 10-09-2019 को जारी हुआ।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता द्वितीय श्रेणी,
उप-तहसील सराहन, जिला शिमला (हि० प्र०)।

ब अदालत श्री प्यारे लाल, सहायक समाहर्ता द्वितीय श्रेणी, सराहन, उप-तहसील सराहन,
जिला शिमला, हिमाचल प्रदेश

मुकद्दमा नं० : 41/2019

तारीख दायर : 15-03-2019

सुनिता पुत्री स्व० श्री चरन दास, निवासी गांव कमडाली, डाकघर बौण्डा, उप-तहसील सराहन, जिला शिमला, हि० प्र० वादी।

बनाम

आम जनता

प्रतिवादी।

विषय.—राजस्व कागजात माल में नाम दुरुस्त करने बारे प्रार्थना-पत्र।

श्रीमती सुनिता पुत्री स्व० श्री चरन दास, निवासी गांव कमड़ाली, डाकघर बौण्डा, उप-तहसील सराहन, जिला शिमला, हि० प्र० ने इस कार्यालय में अपना आवेदन-पत्र मय ब्यान हल्फी दिया है कि प्रार्थिया का नाम आधार कार्ड, परिवार रजिस्टर नकल, जन्म प्रमाण-पत्र, शिक्षा प्रमाण-पत्र में सुनिता दर्ज है जो सही व दुरुस्त है परन्तु पटवार वृत्त सराहन के महाल बौण्डा के राजस्व अभिलेख में प्रार्थिया का नाम काकी दर्ज हुआ है जो कि गलत है तथा आवेदन किया है कि प्रार्थिया का नाम पटवार वृत्त सराहन के महाल बौण्डा के राजस्व अभिलेख में काकी उर्फ सुनिता नाम दर्ज करने के आदेश पारित किये जायें।

अतः इस इश्तहार द्वारा आम जनता को सूचित किया जाता है कि काकी उर्फ सुनिता का नाम पटवार वृत्त सराहन के महाल बौण्डा के राजस्व अभिलेख में दुरुस्त किया जाना है इस बारे आम जनता को कोई आपत्ति हो तो वह इस इश्तहार के प्रकाशन की तिथि उपरान्त एक माह के भीतर इस सम्बन्ध में अपना उजर/एतराज पेश कर सकते हैं। इसके पश्चात् कोई भी उजर/एतराज मान्य नहीं होगा तथा उपरोक्त काकी उर्फ सुनिता का नाम दुरुस्त करने के आदेश पारित कर दिये जाएंगे।

यह इश्तहार हमारे हस्ताक्षर व मोहर अदालत से आज दिनांक 05-09-2019 को जारी हुआ।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता द्वितीय श्रेणी,
उप-तहसील सराहन, जिला शिमला (हि० प्र०)।